

RESOLUTION

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, CREATING A DEVELOPMENT ORDER WITH CONDITIONS FOR A PORTION OF THE SOUTH ROCKLAND MINE DEVELOPMENT OF REGIONAL IMPACT, ON PROPERTY DESCRIBED HEREIN, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 380.06, FLORIDA STATUTES; SETTING FORTH FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL; PROVIDING FOR SUBSTANTIAL DEVIATIONS; PROVIDING FOR LOCAL MONITORING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to section 380.06, Florida Statutes, the Board of County Commissioners of Polk County, Florida, hereafter referred to as "the Board", has considered the application for approval of a modification to a development of regional impact for the South Rockland Mine which was originally a joint venture of U.S. Steel (predecessor to current part owner USAC) and Freeport (current owner of Agrico); and

WHEREAS, The South Rockland Mine DRI consists of a total of 3,283 acres, with approximately 1,735 acres in Polk County to now be solely developed/mined by Agrico Chemical Company ("Agrico"); and

WHEREAS, the Board has considered the application filed by Agrico which is incorporated herein by reference; and

WHEREAS, the Board has considered input from the central Florida Regional Planning Council, hereafter referred to as "the CFRPC", and Polk County Staff: and

WHEREAS, the Board after due consideration, hereby makes the following Findings of Fact and Conclusions of Law which address the 1,735 acres described in attached Exhibit "A" as that portion of the original South Rockland Mine now subject to independent mining and reclamation by Agrico:

FINDINGS OF FACT

1. Agrico Chemical Company, hereafter referred to as "the Applicant," submitted to the Board on May 25, 1990 a Notice of Proposed Change and Request for Substantial Deviation Determination, hereafter referred to as "the Application," said Application with exhibits being incorporated and made part of this Development Order by reference.

THIS INSTRUMENT WAS PREPARED BY

Richard W. Hughes

POLK COUNTY PLANNING DIVISION

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Agrico Chemical Co  
P. O. Box 1110  
Mulberry, FL 33860

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2. The real property which is subject to the application is legally described in the Application and is located in Polk County. This property was originally approved as part of a larger application for development, at the request of the Rockland joint venture, by development order ("D.O.") dated November 10, 1981.
3. The Agrico Application includes approximately 1,735 acres of the original South Rockland Mine which is now scheduled for mining as part of the Applicant's Payne Creek Mine. Agrico will mine the area in a manner consistent with the South Rockland ADA and D.O. unless otherwise noted herein or in the Application.
4. The proposed change will not increase demand for potable or non-potable water. Agrico Consumptive User Permit No. 201078 authorizes average annual withdrawal of 9,000,000 gallons per day, with a maximum combined withdrawal rate not exceed 16,000,000 gallons during a single day.
5. The proposed change will not modify the volume or quality of water discharged from the project site to waters of the state. The point of discharge will be slightly different but the Peace River remains the ultimate receiving body of water.
6. Government capital and operating expense as a result of the change do not appear to be significantly affected.
7. The Application appears compatible with the Board's policy of the promotion of land reclamation techniques which result in the creation of reclaimed land available for a variety of uses including agricultural research, crop/range land production, viable wildlife habitat, and recreation areas.
8. The Application plan of mining and reclamation can be monitored through the information required for the annual mine report submitted to Polk County Zoning and Codes Division and the State Department of Natural Resources (DNR), and through the DRI monitoring report submitted to the CFRPC, the Polk County Development Coordination Department and the Department of Community Affairs (DCA).
9. The information and data contained within the Application were sufficient for the Board to review it as required by Section 380.06, Florida Statutes.
10. The proposed development is consistent with the Polk County Comprehensive Plan and land use maps pertinent thereto.

CONCLUSIONS OF LAW

1. The Board's review of the proposed modification has been conducted pursuant to and is in compliance with the provisions of Chapter 380, Florida Statutes.
2. The Application as submitted, complies with the requirements of Section 380.06, Florida Statutes, and applicable portions of the Florida Administrative Code.
3. The rights and obligations set forth in this Development Order shall inure to the benefit of and be binding upon the applicant, any subsequent property owners affected by this order, and their successors, assignees, and grantees.
4. All development conditions or restrictions present in the South Rockland Mine Development Order dated November 10, 1981 shall remain in full effect unless expressly changed or modified through this resolution.

NOW THEREFORE, BE IT RESOLVED, BY THE Polk County Board of County Commissioners that the application by Agrico for a separate Development order for a portion of The South Rockland Mine is hereby administratively determined not to constitute a substantial deviation and ordered approved subject to the following conditions:

A. Annual Report

1. Copies of all annual reports and renewed operating permits shall be provided to CFRPC, Polk County, and DCA.
2. The Annual Report shall be submitted prior to February 15 of each year to coincide with the Annual Progress Report required under the Polk County Phosphate Mining Ordinance, Polk County Ordinance Number 81-26, as amended. This report shall contain the information required in Section 9J-2, 025 (7), Florida Administrative Code. Failure to submit the annual report shall be governed by Subsection 380.06 (18), Florida Statutes.

B. Mining Operations

1. Agrico will use an existing clay settling area at Payne Creek Mine for all clay disposal needs resulting from this project. Mined areas within the 1,735 acres addressed by this Development Order will be backfilled with sand tailings, and the two sand-

clay mix disposal areas and the clay settling area proposed in the original DRI will be eliminated.

2. Agrico will eliminate mining plans for the channel of Little Payne Creek and will comply with all applicable agency requirements for mining activities in associated wetlands.
3. Agrico will comply with the Polk County Mining Ordinance in effect at the time mining activity is conducted under the authority of this Order.

C. Reclamation

1. Agrico shall reclaim mined or disturbed portions of this project in a manner consistent with the Polk County Mining Ordinance, plans approved by the Florida Department of Natural Resources ("DNR"), and other agencies with jurisdiction.
2. Agrico shall restore 700 acres of upland hardwood forest within its 1,735 acres, consistent with the requirements of DNR Conceptual Reclamation Plan USS-R-CP(d).

D. Substantial Deviation

Any future changes to the plans and conditions described in the Application and in this Development Order shall be subject to the substantial deviation criteria set forth in subsection 380.06(19), Florida Statutes (1989).

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Polk County, that:

1. The Polk County Director of the Department of Development Coordination shall be the local official responsible for assuring compliance with this Development Order.
2. All commitments made in the application shall be considered to be binding upon the applicant.
3. The applicant shall resolve ownership of the land delineated by the Department of Natural Resources as possibly being state owned prior to any mining.

4. The terms and conditions of this agreement shall become effective upon the recording of this document and shall expire in the event that substantial development activity does not commence at the site on or before September 1, 1992. This order shall expire upon completion of all mining and reclamation activities approved herein if development activity begins prior to September 1, 1992. This order shall expire, in any event, 12 years from the date hereof.
5. The Board agrees that this development shall not be subject to down zoning, unit density reduction, or intensity reduction prior to 12 years from the date hereof, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred, or the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety or welfare.
6. Subsequent requests for development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Polk County Board of County Commissioners, after due notice and hearing, that one or more of the following are present:
  - a. A substantial deviation from the terms or conditions of this Development Order, or other changes to the approved development plans which create a substantial deviation under Section 380.06(19), Florida Statutes (1989).
  - b. An expiration of the period of effectiveness of this development order as provided herein.
  - c. Failure to comply with the conditions listed in this Development Order, shall be determined to be a substantial deviation from the adopted Development Order and may result in the termination of development activities.

Upon finding that any of the above is present, the Polk County Board of Commissioners may order a termination of all development activity until such time as a new DRI application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes.

7. The approval granted by this Development Order is limited. The provisions of this Development Order shall not be construed as a waiver or exception to any rule, regulation, or ordinance of Polk County and therefore, any further review and approval required by Polk County shall be subject to all local and state rules, regulations, or ordinances in effect at the time of review.

DULY PASSED AND ADOPTED THIS 21st DAY OF August, 1990.

  
CHAIRMAN  
POLK COUNTY BOARD OF COUNTY  
COMMISSIONERS

Attest:

E.D. "Bud" Dixon  
E.D. "Bud" Dixon, Clerk

By: Nettie L. Dauland  
Deputy Clerk

DESCRIPTION - ROCKLAND TRACT  
(Sections 23, 25, 26, 35 & 36-32-24)

<u>Location</u>	<u>Acres</u>
SE-1/4 of the SE-1/4, Sec. 23, T. 32S, R. 24E	1.05
SW-1/4 of the SE-1/4, " " "	2.26
SW-1/4 of the NE-1/4, Sec. 25, T. 32S, R. 24E	30.98
NW-1/4 of the NE-1/4, " " "	7.49
SW-1/4 of the SE-1/4, " " "	29.43
NW-1/4 of the SE-1/4, " " "	14.23
NE-1/4 of the SW-1/4, " " "	40.27
SE-1/4 of the SW-1/4, " " "	39.13
SW-1/4 of the SW-1/4, " " "	40.27
NW-1/4 of the SW-1/4, " " "	40.28
NE-1/4 of the NW-1/4, " " "	40.34
SE-1/4 of the NW-1/4, " " "	40.31
SW-1/4 of the NW-1/4, " " "	40.32
NW-1/4 of the NW-1/4, " " "	40.34
NE-1/4 of the NE-1/4, Sec. 26, T. 32S, R. 24E	40.19
SE-1/4 of the NE-1/4, " " "	40.20
SW-1/4 of the NE-1/4, " " "	40.19
NW-1/4 of the NE-1/4, " " "	40.18
NE-1/4 of the SE-1/4, " " "	40.20
SE-1/4 of the SE-1/4, " " "	40.20
SW-1/4 of the SE-1/4, " " "	40.19
NW-1/4 of the SE-1/4, " " "	40.19
NE-1/4 of the SW-1/4, " " "	40.17
SE-1/4 of the SW-1/4, " " "	40.17
SW-1/4 of the SW-1/4, " " "	40.16
NW-1/4 of the SW-1/4, " " "	3.06
NE-1/4 of the NW-1/4, " " "	40.17
SE-1/4 of the NW-1/4, " " "	40.17
NE-1/4 of the NE-1/4, Sec. 35, T. 32S, R. 24E	40.18
SE-1/4 of the NE-1/4, " " "	40.19
SW-1/4 of the NE-1/4, " " "	40.19
NW-1/4 of the NE-1/4, " " "	40.17
NE-1/4 of the SE-1/4, " " "	40.21
SE-1/4 of the SE-1/4, " " "	40.22
SW-1/4 of the SE-1/4, " " "	40.22
NW-1/4 of the SE-1/4, " " "	40.21
NE-1/4 of the SW-1/4, " " "	40.20
SE-1/4 of the SW-1/4, " " "	40.22
SW-1/4 of the SW-1/4, " " "	40.22
NW-1/4 of the SW-1/4, " " "	40.20
NE-1/4 of the NW-1/4, " " "	40.17
SE-1/4 of the NW-1/4, " " "	40.19
SW-1/4 of the NW-1/4, " " "	39.17
NW-1/4 of the NW-1/4, " " "	40.17
SW-1/4 of the SW-1/4, Sec. 36, T. 32S, R. 24E	40.10
NW-1/4 of the SW-1/4, " " "	40.13
SW-1/4 of the NW-1/4, " " "	40.17
NW-1/4 of the NW-1/4, " " "	40.21

STATE OF FLORIDA )  
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COUNTY OF POLK    )

I, E. D. "Bud" Dixon, Clerk of the Board of County Commissioners of Polk County, Florida, hereby certify that the foregoing is a true and correct copy of a resolution amending DRI-03 - South Rockland Mine

\_\_\_\_\_ which was adopted by the said Board on the 21st day of August, 1990.

WITNESS my hand and official seal on this 23rd day of August, 19 90.

E. D. "Bud" Dixon  
Clerk

(SEAL)

By Nettie L. Darland  
Nettie L. Darland  
Deputy Clerk