

104-AV ("Permit") which expires on June 14, 2026. The Facility is located at 8813 Highway 41 South, Riverview, FL 33569, in Hillsborough County ("Property"). Respondent owns the Property on which the Facility is located. All of the Facility's operations are subject to the prohibitions and conditions of the EPC Act and rules promulgated thereunder, Florida Statutes and the rules promulgated thereunder, and any EPC and/or DEP orders or permits (if applicable).

4. On April 26, 2021, the Respondent notified EPC staff regarding excess emissions of sulfur dioxide ("SO₂") due to an abnormal event that occurred April 13, 2021 on the No. 8 Sulfuric Acid Plant ("SAP"), identified as emission unit ("EU") No. 005. The EPC found that in the late evening of April 13, 2021 and the early morning of April 14, 2021, the SO₂ air ambient monitors operated by EPC in Apollo Beach and Davis Island in Hillsborough County registered elevated readings for SO₂. On May 14, 2021 EPC staff requested additional information from the Respondent regarding the reported abnormal event including additional details and clarifications.

5. The Respondent provided a response to EPC's request on June 11, 2021. The Respondent's summary included information that indicated that all three SAPs experienced shutdowns on the evening of April 13, 2021, and SAP No. 7 also had another brief shutdown/startup at approximately 3:20am on April 14, 2021. SAP No. 8 shutdown at approximately 9:58pm on April 13, 2021 due to low blower pressure, however a high concentration of SO₂ was detected by the continuous emissions monitoring systems ("CEMS") on the unit from an abnormal event lasting approximately 1 hour and 20 minutes. Further investigation of the incident during a root cause analysis (RCA) that was conducted in July 2021 revealed that the high concentration of SO₂ was caused by a combination of factors: a blower governor that experienced a mechanical malfunction which led to the blower operating at a low capacity, and sulfur flowing to and pooling in the burner while the blower slide gate was in the open position. An interlock exists to prevent the flow of sulfur to the burner while the blower is operating in low capacity, but the interlock was bypassed by the shift operator. Due to the low blower flow rate, the combustion of pooled sulfur consumed the majority of oxygen in air flow, which did not support conversion of SO₂ to SO₃ after combustion. According to the Respondent, since the event, the issue that caused the blower governor malfunction has been corrected.

6. A joint meeting between EPC, FDEP, and the Respondent occurred on June 30, 2021. EPC staff indicated that based on the information provided in the June 11, 2021 response, the 24-hour block average SO₂ emission limits in the Permit were exceeded for both the individual SAP No. 8 limit and the cap for the combined operation for all three SAP units.

7. On July 30, 2021, EPC staff received notification from the Respondent that, on May 27, 2021, the Respondent exceeded the daily pressure drop above the minimum allowable value of the operating parametric monitoring range for the Dryer Venturi Scrubber controlling emissions from the No. 6 Ammoniated Phosphate (“AP”) Plant (EU No. 007). The notification stated that the 24-hr average pressure drop was 8.0 inches of water column, which was below the allowable minimum pressure drop of 8.1 inches of water column. On August 12, 2021, EPC staff received notification from the Respondent that, on July 13, 2021, the Respondent exceeded the minimum allowable 24-hr average liquid/gas ratio on the RGE Impact Scrubber controlling emissions from the No. 5 AP Plant (EU No. 055). The notification indicated that due to a scrubber flow obstruction and a start-up late in the production day, the minimum allowable 24-hr average liquid/gas ratio of 8.39 was exceeded for approximately 1.5 hours of run time while the average 24-hr liquid/gas ratio was 8.37.

8. Based on the findings from Paragraphs 4 through 7, the EPC finds that the following violations occurred:

1) On April 13, 2021, the 24-hour block average SO₂ emissions from SAP No. 8 were 755 lb/hr and from the combined operation of SAP Nos. 7-9 were 861 lb/hr, which exceeded the permit limits of 315 lb/hr and 575 lb/hr, respectively. In addition, investigation into one of the causes of the excess emissions revealed that an interlock designed to prevent the flow of sulfur during the malfunction was bypassed by a shift operator, which constitutes improper operation of facility equipment designed to maintain compliance and minimize excess emissions. These are in violation of Specific Condition Nos. A.8, A.10 and A.14, and Condition TV3 of Appendix TV, of Permit No. 0570008-097-AV; Sections 62-4.160(6) and 62-210.700(1), F.A.C.; and Section 1-3.21(3), Rules of the EPC.

2) On May 27, 2021, Respondent failed to maintain the daily pressure drop above the minimum allowable value of the operating parametric monitoring range for the Dryer Venturi Scrubber controlling emissions from the No. 6 AP Plant. In addition, Respondent did not meet the requirements for timely reporting as the event was not reported until July 30, 2021. These are in violation of Condition TV3 of Appendix TV and Condition RR2 of Appendix RR (as referenced by Facility-Wide Condition FW1), Specific Condition Nos. B.17, M.4 and M.21, and Attachment B (as referenced by Specific Condition No. M.1) of Permit No. 0570008-097-AV; 40 CFR 63.625(d) and 63.628(b), as adopted by Section 62-204.800(11)(b), F.A.C.; Sections 62-4.130 and 62-4.160(6) & (8), F.A.C.; and Section 1-3.21(3), Rules of the EPC.

3) On July 13, 2021, an excursion occurred on the RGE Impact Scrubber controlling emissions from the No. 5 AP Plant which resulted in an exceedance of the minimum allowable 24-hr average liquid/gas ratio. The Respondent did not meet the requirements for timely reporting as the event was not reported until August 12, 2021. This is in violation of Condition RR2 of Appendix RR (as referenced by Facility-Wide Condition FW1), Specific Condition No. B.17 of the Permit; Sections 62-4.130 and 62-4.160(8), F.A.C.; and Section 1-3.21(3), Rules of the EPC.

THEREFORE, having reached a resolution of the matter, Respondent and the EPC mutually agree and it is **ORDERED**:

9. The Respondent shall complete the following items within the timelines stated:

1) Within 75 days of the effective date of this Consent Order, the Respondent shall submit a written plan, for EPC staff approval, documenting the procedure being developed to ensure that SO₂ emissions at the SAPs are minimized and quantified during startup, shutdown, malfunction (“SSM”), which includes cold and warm start-ups, (collectively referred to as “Plan”) and should at a minimum address the following:

- a) Propose additional operational procedures that will prevent or minimize excess SO₂ emissions during SSM, which includes cold and warm start-ups; and
- b) Ensure the SO₂ CEMS at the SAPs are in operation and capable of measuring mass emissions when there is flow exiting the stack, including when there is flow exiting the stack during periods of SSM; and
- c) Select one of the following options to be included in the Plan:
 - a. The installation of CEMS with multiple channels that include spans of 0 – 1,000 ppm and also higher spans capable of capturing higher concentrations of SO₂ that may be occurring throughout all SSM, which includes cold and warm start-ups; or
 - b. Develop and submit an independent reporting approach to measuring excess emissions when flow is exiting the stack. The report shall include the SO₂ emissions above the 0-1000 PPM CEMS range, in unit of lbs/hr, in order to provide reasonable assurance of compliance with the SO₂ standards.

The Plan shall also include timelines for implementation of any process changes deemed necessary. Unless a longer timeframe is established in the Plan for any specific process improvement, all corrective actions identified within the Plan shall be completed within 90 days of written approval of the Plan by the EPC. Within 15 days of written request by the EPC, Respondent shall submit to the EPC a revision to the Plan to address any reasonable request of the EPC. After any requested revisions, the EPC will provide Respondent with written approval of the Plan. The approved Plan shall automatically be incorporated into this Consent Order and shall be an enforceable part of the Consent Order, until the requirements of the Plan are incorporated into the Title V operating permit. Failure to implement the actions identified in the Plan within 90 days or any other approved deadline is a violation of this Consent Order. Respondent shall provide written confirmation to the EPC within 110 days of EPC's written approval of the Plan that all actions required in the approved Plan have been completed.

2) Within 30 days of the effective date of this Consent Order, the Respondent shall evaluate the parametric monitoring procedures for the control equipment at all of the AP Plants and submit a written summary documenting the procedure for evaluating and analyzing the monitored data in order to ensure limited parametric ranges are not exceeded. The summary should include the frequency at which the parametric values are monitored, the manual/automated responses to address elevated readings (i.e. within 90% of the upper/lower range boundary) that may be precursors to exceedances, and any proposed changes to prevent re-occurrence of exceedances such as those documented in this Consent Order. The summary shall also address process improvements for improved reporting in order to ensure that initial and follow-up reporting occurs timely.

10. This Consent Order shall constitute the schedule under which the Respondent shall achieve compliance with the requirements of the Permit and all applicable EPC and DEP rules and regulations. Respondent shall ensure operation of the Facility in compliance with applicable environmental regulations, including but not limited to complying with all applicable rules relating to the operation of the SAPs and their associated control equipment.

11. Within 15 days of the effective date of this Consent Order, Respondent shall pay the EPC a total of \$ **32,400.00** for civil penalties in settlement of the matters addressed in this Consent Order.

12. Respondent agrees to pay the EPC stipulated penalties in the amount of \$250 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraph 9 of this Consent Order. The EPC may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the EPC's issuance of written demand for payment and shall do so as further described in Paragraphs 13 and 14, below. Nothing in this paragraph shall prevent the EPC from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in Paragraph 11 of this Consent Order.

13. Respondent shall make all payments required by this Order by cashier's check or money order. Cashier's check or money order shall be made payable to the **"Environmental Protection Commission"** and shall include thereon the notation "Civil Penalty" and EPC Consent Order No. 21-0611SN0008.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Cody Winter, Air Division, Environmental Protection Commission, 3629 Queen Palm Drive, Tampa, Florida 33619.

15. Respondent shall allow all authorized representatives of the EPC access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the DEP and EPC.

16. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the EPC of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility (collectively referred to as "new controlling party"), and (c) provide a copy of this Consent Order with all attachments to the new controlling party. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

17. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or

other agent (collectively referred to as “contractor”) to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the EPC via phone or e-mail by the next working day. Additionally, within seven calendar days of occurrence of an event causing delay or upon becoming aware of a potential for delay, Respondent shall notify the EPC in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

18. The EPC, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

19. This Consent Order is a settlement of the EPC's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances, and all applicable permits and orders issued under those laws, regulations or ordinances.

20. The EPC does not, by execution of this Consent Order, warrant or assert in any manner that the Respondent's compliance with this Consent Order will result in compliance with Respondent's permit(s). Notwithstanding the EPC's review or approval of any plans, reports, schedules, policies, or procedures prepared pursuant to this Consent Order, the Respondent and its

successors and assigns shall remain solely responsible for any noncompliance with the terms of this Consent Order, all applicable federal, state or local laws, regulations or ordinances.

21. The EPC hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the EPC that are not specifically resolved by this Consent Order.

22. The provisions of the Consent Order shall apply to, inure, and be binding upon the parties and their successors and assigns. Each of the parties hereby agrees that in the event one of the parties attempts to enforce the terms of this Consent Order, no defense will be raised as to the validity or enforceability of this Consent Order. This Consent Order shall be construed and enforced under Florida Law.

23. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, costs and expenses of litigation, and criminal penalties.

24. All parties agree to pay their own fees and costs, including attorney's fees and costs, related to the violations addressed in this Consent Order and incurred up to the date of execution of this Consent Order, except that Respondent shall pay for any penalties, cost, and fees agreed to in this Consent Order.

25. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this Consent Order. Respondent also acknowledges and waives its right to appeal the terms of this Consent Order pursuant to Section 120.68, F.S. Respondent hereby foregoes, surrenders, waives, and disclaims any and all other hearing and appeal rights under Chapter 120, F.S. or Section 9 of the EPC Act and any and all other suits, appeals, claims, or causes of action in any court of competent jurisdiction, including but not limited to County Court, Circuit Court, the Division of Administrative Hearings, appellate courts, or any other EPC hearing processes against the EPC and DEP arising out of or relating to the violations specifically addressed in this Consent Order, and Respondent, and their counsel, further agree not to encourage or support any such actions by other parties or entities to challenge this Consent Order. If Respondent is charged with violation of this Consent Order, Respondent does not waive its right to prove compliance with the terms of this Consent Order in any court of competent jurisdiction.

26. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the

terms of this Consent Order shall be effective until reduced to writing, executed by both Respondent and the EPC, and filed with the Clerk of the EPC.

27. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S., and the EPC Act.

28. This Consent Order is a final order of the EPC pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the EPC unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the EPC.

29. Notice of Rights.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, F.S. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the EPC's final action may be different from the position taken by it in this Consent Order.

The petition for administrative hearing must contain all of the following information:

- (a) The name and address of each agency affected and each agency's file or identification number (the number assigned on the first page of this Consent Order), if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and

- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the Consent Order.

The petition must be filed (received) at the EPC's Legal Department, 3629 Queen Palm Drive, Tampa, Florida 33619 **or via electronic mail at legalclerk@epchc.org or via facsimile at (813) 627-2602** within 21 days of receipt of this notice. Failure to file a petition within the 21-day period constitutes a person's waiver of any right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, F.S. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

Rules referenced in this Consent Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm> and <http://www.epchc.org>.

FOR THE RESPONDENT:

MOSAIC FERTILIZER, LLC

DATE

By: _____
SIGNATURE

Name: _____
PRINT NAME

Title: _____

For EPC staff only

DONE AND ORDERED this _____ day of _____, 20____,
in Hillsborough County, Florida.

ENVIRONMENTAL PROTECTION
COMMISSION OF
HILLSBOROUGH COUNTY

Janet L. Dougherty
Executive Director

Filed, on this date, pursuant to Section 120.52, F.S., with the designated EPC Clerk,
receipt of which is hereby acknowledged.

Clerk

Date