

**BEFORE THE ENVIRONMENTAL PROTECTION  
COMMISSION OF HILLSBOROUGH COUNTY**

**ENVIRONMENTAL PROTECTION  
COMMISSION OF  
HILLSBOROUGH COUNTY,**

Complainant,

v.

**MOSAIC FERTILIZER, LLC**

Respondent.

EPC FILE NO. 22-0616AR0008

**CONSENT ORDER**

This Consent Order ("Order") is entered into between the Environmental Protection Commission of Hillsborough County ("EPC") and Mosaic Fertilizer, LLC ("Respondent") to reach settlement of certain matters at issue between the EPC and Respondent.

The EPC finds and the Respondent neither admits nor denies the following:

1. The EPC is a local regulatory agency vested by the Florida Legislature with the power and duty to protect Hillsborough County's air, soil, and water resources and to administer and enforce the Chapter 84-446, as amended, Laws of Florida ("Hillsborough County Environmental Protection Act" or "EPC Act"), and the EPC rules promulgated thereunder including but not limited to Chapter 1-3, Rules of the EPC, and Chapter 403, Florida Statutes (F.S.), and the delegated rules promulgated thereunder, specifically Title 62, Florida Administrative Code ("F.A.C."), in Hillsborough County, Florida. The EPC entered into an interagency agreement with the Florida Department of Environmental Protection ("FDEP") authorizing the EPC to act on behalf of the State, which includes the authority to enforce State rules and statutes concerning air facilities, including the subject fertilizer manufacturing facility. The EPC has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a Florida Registered Limited Liability Company and is a "person" within the meaning of Section 403.031(5), F.S.

3. Respondent is the owner and is responsible for the operation of Mosaic Fertilizer, LLC, a facility that consists of several industrial processes that convert insoluble rock containing phosphorus ore into a soluble form suitable for agricultural use ("Facility"). The Facility is a Title

V source as defined in section 62-210.200, F.A.C. and is operated under Air Permit No. 0570008-107-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 FDEP orders or permits (if applicable).

4. On June 13, 2022, the Respondent notified EPC staff regarding excess emissions of sulfur dioxide ("SO<sub>2</sub>") due to an event that occurred June 12, 2022 on the No. 9 Sulfuric Acid Plant ("SAP"), identified as emission unit ("EU") No. 006. The Respondent reported that during the start-up of SAP No. 9, elevated levels of SO<sub>2</sub> and oxygen were present that did not subside despite catalyst bed temperatures meeting *Memorandum of Understanding Regarding Best Operation Start-Up Practices for Sulfuric Acid Plants* ("MOU") requirements. The Respondent attempted three additional start-ups of SAP No. 9, each of which was shut down by an existing interlock system for high SO<sub>2</sub> emissions. The MOU between the Respondent and FDEP was executed on October 25, 1989 and is included under Permit No. 0570008-107-AV in Section III, subsection A. Emission Units and Specific Conditions, specific condition A.15.

5. The notification provided by the Respondent to EPC indicated that a high concentration of SO<sub>2</sub> was detected by the continuous emissions monitoring systems ("CEMS") on the unit during start-up resulting in the 24-hour block average SO<sub>2</sub> emissions from SAP No. 9 to be 528 lbs/hr, which was in exceedance of the permit limit of 425 lbs/hr.

6. EPC issued Warning Notice No. 2022-0116A to the facility on June 23, 2022. On July 1, 2022, the Respondent provided additional information in response to the Warning Notice indicating that the exceedance from the June 12, 2022 event was due to unforeseen impacts of the replacement of the No. 9 SAP Interpass Absorbing Tower (IPA) and associated equipment during the April 2022 turnaround. The Respondent conducted a subsequent investigation into the exceedance and found that a buildup of pressure in the distribution system of the new IPA tower pumps led to insufficient acid flow to the IPA tower, which resulted in lower SO<sub>3</sub> absorption generated during the cold startup of SAP No. 9.

7. On August 27, 2022, at 6 AM until August 28, 2022, at 6 AM, the No. 6 Ammoniated Phosphate ("AP") Plant Cooler Tailgas Scrubber, identified as EU No. 007, fell below the minimum Liquid-to-Gas ("L/G") ratio of the parametric range established during the

2022 compliance test. The No. 6 AP Plant L/G ratio fell to 5.91, which is below the 6.56 ratio established for 2022.

8. EPC issued Warning Notice No. 2022-0157A to the facility on September 12, 2022. On September 20, 2022, the Respondent provided information in response to the Warning Notice. Upon investigation, the Respondent found that the cause of the L/G ratio falling below the required level was due to the tank level flow regulator being impacted by a power outage caused by lightning earlier in the week. The Respondent proposed modifications to the existing interlock system to prevent future L/G ratio exceedances.

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

a) On June 12, 2022, the 24-hour block average SO<sub>2</sub> emissions from SAP No. 9 was 528 lbs/hr which exceeded the permit limit of 425 lbs/hr. This is in violation of Specific Condition No. A.8 of Permit No. 0570008-107-AV; Section 62-210.700(1), F.A.C.; and Section 1-3.21(3), Rules of the EPC.

b) On August 27, 2022 at 6 AM until August 28, 2022 at 6 AM, the No. 6 AP Plant L/G ratio fell to 5.91, which is below the 6.56 ratio established for 2022. This is in violation of Sections 17(1)(a) and 17(1)(b) of Chapter 84-446, Laws of Florida (Act); Specific Condition No. B.31 of Permit No. 0570008-107-AV; 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**:

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

a) Within 7 days of the effective date of this Consent Order, the Respondent shall institute and convene a panel of internal subject matter experts to be entitled the “Center of Excellence” (COE) who will review the SAP startup procedures at the Riverview facility with the goal of developing best management practices for SAP startups. The Respondent, via the COE, will review best management practices for SAP startups at the Riverview facility and align these practices with respect to the conditions of the Permit and the MOU. The Respondent shall submit monthly progress reports to the EPC regarding the work of the COE for the Riverview facility. Monthly progress report submittals will be made no later than 10 days after the end of the previous calendar month.

b) Within 30 days of the completion of the COE review, and no later than May 1, 2023, the Respondent shall submit the final recommended best management practices and their timelines for completion to the EPC and FDEP for review and approval prior to implementation at the Riverview facility. Upon written approval by EPC and FDEP, the final best management practices and their timelines for completion become incorporated in and enforceable under this Order until such time that best management practices, as approved by the FDEP during the permitting process, are incorporated into the permit modification under 10(c). Submittal of monthly progress reports will continue until such time that the best management practices have been implemented at the Riverview facility.

c) If required, Respondent will develop and submit a permit modification application to FDEP to incorporate the recommendations of the COE, within 90 days after EPC and FDEP approval of the best management practices. Respondent shall copy EPC on the submittal of the proposed revised permit application to FDEP and subsequent revisions that are requested by FDEP.

d) Within 90 days of the effective date of this Consent Order, the Respondent shall modify the existing interlock system on the No. 6 AP Plant Cooler Tailgas Scrubber, and provide documentation to EPC upon completion, as follows:

- i. One interlock shall be modified to shut down the plant prior to the L/G ratio falling below the daily average minimum; and,
- ii. One interlock shall be modified to prevent plant start-up/restart if the minimum flow rate is not achieved.

e) If an extension of time is needed to complete the requirements contained in paragraphs 10.a. through 10.c., Respondent shall request an extension of time no later than seven (7) days prior to the stated deadline. The request must include the amount of additional time needed and the reasons for the extension. Upon timely request and reasonable justification, EPC may provide extensions of time without amendment to this Order. Any deadline that falls on a weekend or holiday shall be treated as the next business day.

11. 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.

12. Within 15 days of the effective date of this Consent Order, Respondent shall pay the EPC a total of **\$13,990.00** in settlement of the matters addressed in this Consent Order. This amount includes \$13,000.00 for civil penalties and \$990.00 for costs and expenses incurred by the EPC during the investigation of this matter and the preparation and tracking of this Consent Order.

13. 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 10 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 14 and 15, 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 12 of this Consent Order.

14. 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. 22-0616AR0008."

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

16. 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 FDEP and EPC.

17. 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 the "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.

18. 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 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(s) extended, the new compliance date(s), 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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 FDEP 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.

27. 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.

28. 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.

29. 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 ("effective date") 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.

30. 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](mailto: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

MARCH 10, 2023  
DATE

By: Joseph C. Wolf  
SIGNATURE

Name: JOSEPH C. WOLF  
PRINT NAME

Title: VICE PRESIDENT CONCENTRATES

**For EPC staff only**

DONE AND ORDERED this 22nd day of March, 20 23,

in Hillsborough County, Florida.

ENVIRONMENTAL PROTECTION  
COMMISSION OF  
HILLSBOROUGH COUNTY

Janet D. Lorton  
Janet D. Lorton  
Executive Director

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

Sahand Nasseri

Clerk

3/23/2023

Date