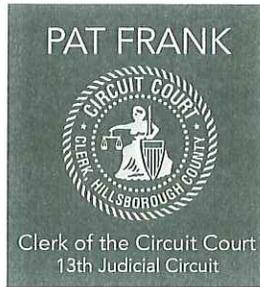


#245



October 21, 2009

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
4000 GATEWAY CENTER BLVD SUITE 100
PINELLAS PARK FL 33782

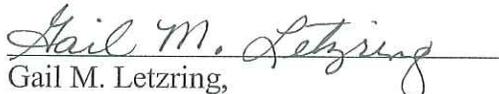
Re: Resolution No. R09-138 – Amended and Restated Development Order Big Bend Transfer Company, LLC, Sulphur Handling Facility DRI #245 (fka DRI #23/47)

Dear Mr. Meyer:

Attached is a certified original of referenced resolution, which was adopted by the Hillsborough County Board of County Commissioners on October 13, 2009.

We are providing this original for your files.

Sincerely,


Gail M. Letzring,
Manager, BOCC Records

md

Certified Mail Receipt # 7003 3110 0004 4683 0318

Attachment

cc: Board files (orig.)
Hugh Marthinsen, Esq., Saxon Gilmore Carraway & Gibbons, P.A. (orig. ltr.)
Charles Gauthier, Chief, DCA Bureau of State Planning (orig. ltr.)
Nancy Y. Takemori, Assistant County Attorney
John Healey, Senior Planner, Planning and Growth Management
Sandra Davidson, County Attorney's Office
Christopher Weiss, Property Appraiser's Office
Mary Mahoney, Management and Budget

AMENDED AND RE-STATED DEVELOPMENT ORDER

FOR DRI #245

(FORMERLY DRI NO. 23/47)

Resolution No. R09- 138

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ISSUING AN AMENDED AND RE-STATED DEVELOPMENT ORDER FOR A NOTICE OF PROPOSED CHANGE TO A DEVELOPMENT OF REGIONAL IMPACT, KNOWN AS THE BIG BEND TRANSFER COMPANY, LLC, SULFUR HANDLING FACILITY; DRI #245.

Upon motion of Commissioner Norman, seconded by Commissioner Beckner, the following Resolution was adopted by a vote of 6 to 0 on this 13th day of October, 2009.

WHEREAS, on January 9, 1974, Agrico Chemical Company (now known as Mosaic Fertilizer, LLC, formerly known as IMC Phosphates Company and IMC-Agrico Company), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners (the "BOCC") pursuant to the provisions of Section 380.06, Florida Statutes ("F.S."), as amended; and

WHEREAS, said application proposed construction of a phosphate terminal facility on approximately 210.82 acres, as described in **Exhibit "A"** attached hereto and incorporated herein by reference, located in unincorporated central Hillsborough County; and

WHEREAS, on March 27, 1974, the BOCC approved petition No. 74-5 requesting a Development Order for the Big Bend Terminal Facility Development of Regional Impact ("DRI") No. 23 pursuant to the provisions of Section 380.06, F.S.; and

WHEREAS, on October 9, 1974, July 16, 1975 (designated DRI No. 47), September 6,

1978, November 26, 1980, September 2, 1981, August 18, 1982, and March 25, 1986, the BOCC approved amendments to the Development Order, pursuant to the provisions of Section 380.06, F.S., (hereinafter the March 27, 1974, Development Order, as amended by the above-referenced amendments, shall be referred to as the "Development Order for DRI #23/47"); and

WHEREAS, the amendment to Development Order for DRI #23/47 approved by the BOCC on March 25, 1986, authorized the construction of a prilled sulfur handling facility, but said facility was never built; and

WHEREAS, the Development Order for DRI #23/47 has expired; and

WHEREAS, Big Bend Transfer Co., LLC, (the "Developer") is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend Inc.; and

WHEREAS, the Developer has leased/licensed an approximately 17.93 acre area of the Big Bend Terminal DRI site as identified by the legal description contained in **Exhibit "B"**, attached hereto and incorporated herein by reference, from Mosaic Fertilizer, LLC, (formerly known as IMC Phosphates Company, formerly known as IMC-Agrico Company), the fee simple owner of the DRI site; and

WHEREAS, it has been determined that the previously described 17.93-acre project herein constituted a substantial deviation to DRI #23/47 pursuant to Chapter 380, F.S.; and

WHEREAS, on April 20, 2000, the Developer filed an "Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact Subsection 380.06 (19), F.S." (the "ADA"), for the Big Bend Terminal DRI in accordance with Section 380.06 (19), F.S.; and

WHEREAS, the ADA proposed revisions to the Development Order for DRI #23/47 to allow up to 2 million long tons of solid sulfur to be imported annually to the site by ship or barge, to be melted and provided to sulfur users in Central Florida, as more particularly stated in the ADA; and

WHEREAS, the proposed ADA amendments were only applicable to the approximately 17.93-acre area leased/licensed by the Developer and described in **Exhibit "B"**; and

WHEREAS, on December 12, 2000, January 9, 2001, and January 18, 2001, the BOCC held a duly noticed public hearing on the ADA and considered testimony, documents and evidence within the record made before the BOCC; and

WHEREAS, on January 18, 2001, the BOCC by a vote of 5-2 voted to approve the project with conditions; and

WHEREAS, the approval was challenged in Circuit Court by the citizen's group SAVE OUR BAYS, AIR & CANALS, Inc. ("SOBAC"); and

WHEREAS, on November 1, 2001, the Circuit Court granted the writ requested by SOBAC and remanded the matter back to BOCC finding that the Developer should have rezoned the property to a Planned Development zoning district; and

WHEREAS, on November 29, 2001, IMC Phosphates Company, (now known as Mosaic Fertilizer, LLC, a/k/a "Mosaic") the fee simple owner of the property on which the proposed sulfur handling facility would be constructed, submitted an application to rezone the entire 210.82 acres encompassed by DRI 23/47 from a Manufacturing district to a Planned Development district; and

WHEREAS, on March 26, 2002, the BOCC adopted Resolution No. R02-061, which reapproved the ADA, and concurrently rezoned the property from a Manufacturing (M) to Planned

Development; and

WHEREAS, the BOCC adopted Resolution No. R04-085 on May 11, 2004 extending the project buildout date and Development Order expiration date to December 21, 2025; the required construction commencement date to March 16, 2009; and the deadline for dedication of land or cash donation for a fire station to March 16, 2009; and

WHEREAS, the BOCC adopted Resolution R08-148 on September 23, 2008, extending the required construction commencement date to March 16, 2014, and the deadline for dedication of land or cash donation for a fire station to March 16, 2014; and

WHEREAS, on May 8, 2009, Mosaic Fertilizer, LLC, filed an application for a Notice of Proposed Change (“NOPC”) with the Hillsborough County Board of County Commissioners (the “BOCC”) to the previously approved Development of Regional Impact (DRI) #245 (formerly within DRI #23/47) known as the Big Bend Transfer Company, in accordance with Subsection 380.06(19), Florida Statutes (“F. S.”), as amended; and

WHEREAS, Mosaic seeks to: extend the required construction commencement date of the sulfur handling facility (“Facility”) to March 16, 2019; extend the Facility’s deadline for dedication of land or cash donation for a fire station to March 16, 2019; and

WHEREAS, on April 30, 2009, Mosaic submitted an application to revise the Planned Development District zoning of the entire 210.82 acre site, to allow construction of a 500,000 square foot fertilizer warehouse building, a truck unloading facility, an additional internal rail line and ancillary facilities outside of the 17.93 acre area of the Sulfur Project;

WHEREAS, the land encompassed within the NOPC lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the proposed NOPC is only applicable to the approximately 17.93-acre area leased/licensed by the Developer and described in Exhibit "B"; and

WHEREAS, the conditions contained in this amended and restated Development Order are applicable only to the 17.93-acre lease/license area and the Facility; and

WHEREAS, the public notice requirements of Section 380.06, F.S., and the Hillsborough County Land Development Code (the "LDC"), as amended, have been satisfied; and

WHEREAS, the BOCC has received and considered the reports and recommendations of TBRPC, PGMD, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens.

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider NOPCs for DRIs and amendments; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING ASSEMBLED THIS 13th DAY OF OCTOBER, 2009 THAT THE AMENDED AND RE- STATED DEVELOPMENT ORDER FOR THE SULFUR HANDLING FACILITY (DRI #245) SUBMITTED BY THE DEVELOPER, IS HEREBY APPROVED WITH CONDITIONS, SAID APPROVAL BEING BASED UPON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

I. FINDINGS OF FACT

- A. The Developer is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend, Inc. (the latter two have merged to create Mosaic Fertilizer, LLC).
- B. The Developer has leased/licensed an approximate 17.93-acre area of the Big Bend Transfer Company DRI site, as identified by the legal description contained in **Exhibit "B"**, from Mosaic Fertilizer, LLC, (formerly IMC Phosphates Company), the fee simple owner of the DRI site.
- C. The authorized agent for Big Bend Transfer Co., LLC, is Mr. Rich Krakowski.
- D. On May 8, 2009, the Developer submitted an NOPC to DRI #245 which requested approval to extend the commencement date and mitigation date for the Facility 5 years to March 16, 2019.
- E. The subject of this Amended and Restated Development Order (hereafter "Development Order") is the development of the Facility. The Facility will be located on the estimated 17.93-acre area of the Big Bend Terminal leased/licensed by the Developer, as described in **Exhibit "B"**.
- F. The land subject to this Development Order is wholly within the Coastal High Hazard Area (CHHA) and the Urban Service Area.
- G. The Facility is consistent with Policy 6.7 of the Coastal Management Element of the Future of Hillsborough Comprehensive Plan which states that new development is limited in the Coastal High Hazard Area to uses that are vested, water enhanced, water related, water dependent, or further the Port consistent with the Port Authority Master Plan and limit public expenditure.
- H. For purposes of DRI review, the Facility is an industrial land use pursuant to Section

380.0651, F.S., and Chapter 28-24, Florida Administrative Code ("F.A.C.").

- I. The Facility is not within an area of critical state concern as designated pursuant to Section 380.05, F.S.
- J. Subject to the conditions of this Development Order, the Facility will not adversely affect the state and regional resources identified in the State Comprehensive Plan, or the TBRPC Strategic Regional Policy Plan (entitled the "Future of the Region: A Strategic Regional Policy Plan"). Further, the Facility will not adversely impact adjacent jurisdictions or the availability of affordable housing.
- K. TBRPC, at the conclusion of its October 12, 2009, public meeting on its staff's review and recommendation of the NOPC, voted to recommend approval of the Facility, with conditions, to the BOCC.
- L. The information and data contained within the NOPC are sufficient for the BOCC to review the Facility as required by Section 380.06, F.S.
- M. On October 13, 2009, the BOCC held the required public hearings on the NOPC, heard all testimony offered and received evidence and documents pertaining to the Facility, including but not limited to the reports and recommendations of the TBRPC, the PGMD, and the Planning Commission.

II. CONCLUSIONS OF LAW

- A. After review by the BOCC of the various written and oral reports, memoranda and letters associated with the review of the Facility, the BOCC concludes that all statutory procedures have been adhered to and the impacts of the Facility are adequately addressed pursuant to the requirements of Section 380.06, F.S., within the terms and conditions of this

Development Order.

- B. In considering whether the NOPC should be approved subject to various conditions, restrictions and limitations contained in the Development Order, the BOCC has considered the criteria stated in Chapter 380, F.S., and including those in subsection 380.06(14), F.S., and Chapter 9J-2, F.A.C.

- C. The Facility, as described in the NOPC, shall be subject to the terms of this Development Order and shall not be subject to future DRI review pursuant to Section 380.06, F.S., unless the BOCC determines that any proposed changes to the Facility constitute a substantial deviation pursuant to Section 380.06(19), F.S.

- D. Based on the compliance with the terms and conditions of this Development Order, the NOPC, together with the reports, recommendations and testimony heard and considered by the BOCC, it is concluded that:
 - 1. The development approved hereby is consistent with the State Comprehensive Plan as a whole;

 - 2. The development does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area;

 - 3. The development is consistent with the TBRPC Future of the Region: A Strategic Regional Policy Plan;

 - 4. The development is consistent with the report and recommendations of TBRPC submitted pursuant to Subsection 380.06(12), Florida Statutes;

 - 5. The development is consistent with the Comprehensive Plan of Hillsborough

County and with the LDC; and

6. The development is consistent with the Tampa Port Authority Master Plan.
- E. Based on the Hillsborough County Comprehensive Plan, Future Land Use Element and Map, the Facility is situated on land designated as a Heavy Industrial land use classification and is consistent therewith.
- F. As required by the Hillsborough County Comprehensive Plan and the LDC, the Facility is situated on land zoned Planned Development (PD) and is consistent therewith.

III. SPECIFIC CONDITIONS

- A. Map "H", dated October 10, 2000, is adopted as part of this Development Order, and is attached hereto as **Exhibit "C"** and incorporated herein by reference.
- B. The following development (on the lease/license area described in **Exhibit "B"**) is hereby authorized to be completed in a single phase buildout under the Development Order expiration date of December 21, 2025:
 1. One (1) ship/barge unloader.
 2. A conveyor system.
 3. One (1) solid sulfur storage building totaling 154,000 square feet with a capacity of 78,000 tons.
 4. One (1) sulfur melting building totaling 17,100 square feet and three (3) solid sulfur melters.
 5. One (1) boiler.
 6. Three (3) liquid sulfur storage tanks with a capacity of 10,000 tons each.
 7. One (1) process/purge water storage tank.

8. One (1) fuel oil storage tank with a capacity of 12,000 gallons and required secondary containment device.
 9. Four (4) liquid sulfur truck loading stations.
 10. One (1) caustic soda storage tank with a capacity of 7,500 gallons and secondary containment device.
 11. One (1) liquid sulfur rail car loading station.
 12. Miscellaneous support facilities which are ancillary to the Facility's operation (e.g., pipelines, offices).
- C. No in-water construction or development is authorized by this Development Order.
- D. All new development shall comply with all applicable provisions of the Land Development Code.
- E. All development shall be in accordance with Chapters 62-296.411, 62-212.600, and 62-4, F.A.C.
- F. All development shall be consistent with Hillsborough County Environmental Protection Commission (the "EPC") Permit No. 0571244-001-AC. This permit and the authorization to construct the facility expires March 26, 2011. The EPC will evaluate whether an extension without an evaluation of newly available control technology, as required by a new permit, would be in the public's best interest. Be advised, if construction of the said facility has not commenced by March 26, 2011, and no extensions have been granted, a new construction permit will be required for future authorization.
- G. No more than 2 million (2,000,000) long tons of prilled sulfur per year may be brought into the Facility. In each annual report the Developer shall identify the total amount of solid sulfur brought into the Facility each reporting year.
- H. SOILS

The Developer shall use Best Management Practices and the erosion control techniques listed

on page 15-1 of the ADA 00-0775 during site preparation and construction, to include such measures as watering, straw bale barriers, and silt fences.

I. FLOODPLAINS

The floors of all structures located within the 100-year floodplain shall be constructed above the 100-year flood elevation as determined by the Federal Emergency Management Agency ("FEMA").

J. WATER SUPPLY

1. The Developer shall use non-potable "reclaimed" water within 30 days of being advised by Hillsborough County that it is available, and shall use it for all suitable uses to the maximum extent possible. The Big Bend Sulfur Handling Facility (DRI #245) and development on the Big Bend Terminal DRI site (DRI #23/47) shall not use more than the 62,000 gallons per day of potable water used by the Big Bend Terminal DRI prior to approval of the Big Bend Sulfur Handling Facility. In the event that reclaimed water is not available to service additional water needs for the Sulfur Handling Facility operations, the Developer shall use non-potable water from other sources, such as municipalities or BBTC member facilities, on an interim basis, until such time that reclaimed water becomes available.
2. The Developer shall utilize high-efficiency (low volume) plumbing fixtures and other water conserving devices.

K. WASTEWATER

1. New on-site sewage disposal systems (septic tanks) shall not be permitted. The Developer shall connect to the County's sanitary sewer system. The Developer may

not seek hardship exceptions to this requirement as provided for in the Future of Hillsborough Comprehensive Plan and the LDC.

2. No industrial wastewater shall be disposed of on-site. "Process" water (also termed "scrubber" or "purge" water) shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC.

L. STORMWATER MANAGEMENT AND WATER QUALITY

1. The Facility shall utilize the existing stormwater facilities within DRI #23/47. The current standard of zero discharge of stormwater shall be maintained throughout the life of the Facility, in accordance with any permits issued by the Florida Department of Environmental Protection ("FDEP").
2. The Developer will operate and maintain the drainage system within the lease/licensed area as provided in the ADA after completion of the development.
3. The Developer will initiate water quality monitoring of the onsite stormwater ponds in accordance with FDEP permits. The parameters that shall be sampled for in the stormwater ponds shall include, but not be limited to, the following: (1) pH, (2) Temperature, (3) Dissolved Oxygen, (4) TRPH - Total Recoverable Petroleum Hydrocarbons, (5) Total Suspended Solids and (6) Total Nitrogen. Samples shall be taken four times per year, twice during the wet season and twice during the dry season. The results of the water quality monitoring shall be included in the project's Annual Report.

4. The Developer shall monitor groundwater conditions from one (1) location. The parameters to be monitored shall include Nitrate-N, Total Kjeldahl Nitrogen, Total Nitrogen, Total Phosphorous, and Total Dissolved Solids. The Developer shall report the findings of the monitoring program in the Annual Report.

M. SOLID WASTE/HAZARDOUS MATERIALS

1. The Developer will comply with all Superfund Amendment and Reauthorization Act (SARA), Title III requirements on the handling, storage and reporting of hazardous materials.
2. A Spill Prevention Control and Countermeasure Plan (the "Spill Plan") pursuant to Chapter 40, Code of Federal Regulations, Part 112, shall be developed prior to the operation of the Facility. Any petroleum spills will be handled in accordance with the Spill Plan. The Developer shall submit the Spill Plan for review and approval to the Hillsborough County Emergency Management Department prior to operation of the Facility. The Spill Plan shall be made available for review by the Occupational Safety and Health Administration.
3. No more than 7,500 gallons of Caustic Soda shall be stored at the Facility at any one time.
4. Secondary containment devices shall be constructed surrounding the fuel and Caustic Soda tanks.
5. All waste filter cake shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC, for disposal.
6. No hazardous waste shall be generated or stored at the Facility.

N. TRANSPORTATION

1. Under normal traffic conditions no trucks carrying sulfur from the Facility shall use Madison Avenue/Progress Boulevard. The Developer shall notify all trucking companies using the Facility of this requirement.
2. All trucks serving the Facility shall utilize truck routes designated by the County.
3. The cargo beds of vehicles transporting the cake filter wastes shall be covered with tarpaulins in order to prevent spillage.

O. AIR

1. The Developer shall use all equipment and/or techniques, or their equivalents, for air quality control as discussed in the ADA, including, but not limited to, vapor recovery and scrubbing, dust suppression spray, and dust collection throughout the life of the Facility.
2. The boiler utilized by the Facility shall burn very low sulfur (0.05%) #2 fuel oil.
3. The Facility shall use natural gas to operate the boiler for the solid sulfur melters if and when a natural gas pipeline is available to the west of U.S. 41 in the vicinity of Pembroke Avenue.
4. The Developer shall submit a new application to construct an air pollution source (DEP Form No. 62-210.900(1)) if construction has not commenced on the Facility by March 26, 2011.

5. The Developer shall submit an annual report to the EPC on or before December 30 of every year detailing the progress made towards commencement of construction of the facility.

P. HURRICANE PREPAREDNESS

The Developer shall prepare a Hurricane Preparedness Plan and submit it to PGMD, TBRPC and the Florida Department of Community Affairs ("DCA") for review prior to operation of the Facility. At a minimum, such Hurricane Preparedness Plan shall be included in the first Annual Report following commencement of construction.

Q. ENERGY

All equipment used on the Facility site shall be designed to efficiently use energy.

R. VEGETATION and WILDLIFE

1. The Developer shall construct a "fendering system" for manatee protection on the dock serving the Facility pursuant to rules of the Florida Fish and Wildlife Conservation Commission ("FFWCC"). Permanent manatee information and/or awareness sign(s) shall be installed and maintained to increase boater awareness of the presence of manatees, and of the need to minimize the threat of boats to these animals. The signs shall be installed prior to the Facility opening and beginning operations, should be replaced in the event the signs fade or become damaged, and shall be maintained for the life of the facility. The number, type, and procedure for installation should be in accordance with "Permanent Manatee Signs," published by the Bureau of Protected Species Management.

2. In the event that any additional state or federally listed species or colonies of species are discovered using the project site for breeding, the Developer shall immediately notify the FFWCC and implement the recommended measures for species protection.
3. In the event that any in-water development is proposed, the Developer shall coordinate with the FFWCC to ensure that standard manatee construction conditions are followed for all in-water construction. Additionally, any in-water construction shall occur only during the times of year recommended by the FFWCC.

S. OPERATIONS

1. The Developer shall not unload, store, or manufacture at the Facility any sulfur products commonly known as vatted sulfur, crushed bulk sulfur or slated sulfur.
2. The Developer shall not dispose of any reclaimed, contaminated or waste sulfur at the Facility.
3. The Developer shall follow all applicable provisions of the Hillsborough County Fire Code and all recommendations of the Hillsborough County Fire Department as may be necessary for fire prevention and control at the Facility, and shall further provide adequate access for firefighting equipment to any berthed ships containing sulfur.
4. The Developer shall dedicate or cause the dedication of 2 acres of developable land to Hillsborough County, acceptable to the Hillsborough County Fire Department, for a HAZMAT (hazardous materials) fire facility within the boundaries of the Big Bend Terminal DRI (#23/47), or purchase 2 acres off-site within 2 miles of the DRI boundary. The conveyance of said 2 acres to Hillsborough County shall occur no

later than March 16, 2019. Alternatively, at the County's election, the Developer will donate cash in an amount equal to the appraised value of the 2.5 acre Adamsville Fire Station located on Powell Road. The appraisal shall be performed at the Developer's sole cost and expense by an appraiser selected by the County. The conveyance of said two (2) acres or cash payment to Hillsborough County shall occur no later than March 16, 2019.

5. Prior to the operation of the Facility, the Developer shall provide the County with evidence of an insurance policy with limits of \$1 million for any on-site environmental pollution and limits of \$10 million to cover any off-site liability or third party damage or claim including but not limited to the following situations: the spill, discharge, dispersal, seepage, migration, release or escape of pollutants caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, or flood. Hillsborough County shall be named as an additional insured on the policy. The policy shall be annually renewed. A draft policy shall be provided to the County for review and approval at least 90 days prior to the Facility becoming operational.

Alternatively, if the insurance coverage listed above is no longer available, the Developer shall furnish the County with evidence of financial responsibility in the above amounts in sufficient detail satisfactory to the County's Division of Insurance and Claims and the County Attorney's Office.

IV. GENERAL PROVISIONS

- A. This Resolution shall constitute the Amended and Re-stated Development Order of Hillsborough County for DRI #245 for the Big Bend Transfer Co., LLC, Sulfur Handling Facility.

- B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of this Development Order.
- C. This Development Order is only applicable to the Developer's leased/licensed area, as described in **Exhibit "B"**.
- D. All provisions or commitments made by the Developer within the ADA shall be considered conditions of this Development Order, unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.
- E. The definitions contained in Chapter 380, F.S., shall govern and apply to this Development Order.
- F. This Development Order shall be binding upon the Developer its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on the Developer by this Development Order. It is understood that any inference herein to any governmental agency shall be construed to include any future instrumentality that may be created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.
- G. Physical development of the Facility shall begin no later than March 16, 2019, provided that the Developer has received all necessary, final and nonappealable permits to do so. In the event that the Developer has not timely received all necessary, final and nonappealable permits to commence construction of the Facility within the timeframe specified above for any reason beyond the Developer's control, then the development of the project shall commence within sixty (60) days after receipt of all necessary, final and nonappealable permits to do so.

- H. The project shall be developed as a single phase with a buildout of December 21, 2025, or whenever all proposed development is completed, whichever occurs first.

- I. This Development Order shall remain in effect for a period up to and including December 21, 2025, or at project buildout, whichever occurs first. Any development activity for which plans have been submitted to the County for its review and approval prior to the expiration date of this Development Order may be completed, if approved. This Development Order may be extended by the BOCC consistent with the requirements of Subsection 380.06(19), F.S. It is recognized that operation of the Facility may continue indefinitely after project buildout and expiration of the Development Order. However, no new development may occur after the expiration of the Development Order. Any new development proposed after the expiration of the Development Order shall require a substantial deviation determination.

- J. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to review development of regional impact applications as well as all governmental agencies and departments set forth under applicable laws and rules governing developments of regional impact.

- K. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.

- L. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this

Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County LDC.

- M. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable rules, regulations and ordinances in effect at the time of the review.
- N. Except as otherwise provided herein, the previously approved Development Order for DRI #23/47 and amendments thereto for the Big Bend Terminal DRI shall remain unchanged.
- O. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2025, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this 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.
- P. The Developer shall file an annual report in accordance with the requirements of Section 380.06 (18), F.S., on Form RPM-BSP-ANNUAL REPORT-1. The annual report shall contain all information required by that form and Subsection 91-2.025(7), F.A.C. The

annual report shall be due on the anniversary of the effective date of this Development Order for each following year until completion of all construction as proposed in the ADA and all terms and conditions of this Development Order are satisfied. The annual report shall be submitted to the County Administrator, and all other entities as specified in Section 380.06(18), F.S. The County Administrator shall, after appropriate review, submit the annual report for review by the BOCC. The BOCC shall review the report for compliance with the terms and conditions of this Development Order and may issue further orders and conditions to insure compliance with the terms and conditions of the Development Order. The Developer shall be notified of any BOCC hearing wherein such report is to be reviewed. The receipt and review by the BOCC of the Annual Report shall not be considered a substitute or waiver of any terms or conditions of the Development Order.

- Q. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if the Developer and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.

- R. In connection with all regulatory permits required in the future for the Facility, the Developer shall be required to comply with all laws, rules and regulations in effect at the time the Developer submits complete and sufficient permit applications(s). However, except as expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and the Developer shall retain its rights under Section 163.3167(8), F.S.

- S. The Developer shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.

- T. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.
- U. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex-Officio Clerk to the BOCC by certified mail to DCA, TBRPC, and the Developer.
- V. The Developer has certified that full and complete copies of the NOPC have been delivered to all persons required by law pursuant to the “Developer’s Affidavit,” attached hereto and incorporated herein as **Exhibit “D.”**
- W. Any headings contained in this Development Order are for informational purposes only and shall not be construed as limiting or defining any term or condition contained in this Development Order.
- X. All actions tied to the effective date of this Development Order shall be tolled during any period this Development Order may be on appeal pursuant to Section 380.07, F.S., subject to any other judicial or administrative challenge, and during the pendency of administrative or judicial proceedings related to any permits necessary or required for the Facility.

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STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of October 13, 2009, as the same appears of record in Minute Book 401 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 21st day of October, 2009.

PAT FRANK, CLERK

By: Beverly Anne Miller
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: [Signature]
Assistant County Attorney
Approved as to form and legal sufficiency



EXHIBIT A

BIG BEND TRANSFER CO., LLC, (AKA BIG BEND TERMINAL) DEVELOPMENT OF REGIONAL IMPACT #245 (#23/47) LEGAL DESCRIPTION

A parcel of land lying in fractional Section 9 and Westerly thereof and in Section 10, Township 31 South, Range 19 East, Hillsborough County, Florida, described as follows: Beginning at the Northeast corner of Section 9, Township 31 South, Range 19 East, Hillsborough County, Florida, run thence South 89° 48' 37" East along the North line of Section 10 a distance of 1074.85 feet to a point; run thence South 00° 53' 49.5" West along the Westerly boundary of that certain public road right-of-way and a Northerly extension thereof as established by that certain Right-of-way Deed recorded April 12, 1971 in Official Record Book 2296 on page 629, a distance of 1,121.34 feet; run thence North 89° 48' 37" West a distance of 5033.29 feet to a point on the Hillsborough County Bulkhead line as established by the Board of County Commissioners of Hillsborough County, Florida on March 23, 1960, by resolution as recorded in Minute Book 32 of said commission and as shown by that certain map recorded in Plat Book 36 on page 91; run thence North 00° 49' 03" East along said Bulkhead Line a distance of 1,121.32 feet to a point on the Westerly extensions of the North line of said Section 9; run thence South 89° 48' 37" East along the North line of said Section 9 and the Westerly extension thereof a distance of 3960.00 feet to the point of beginning.

A parcel of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said section 10, run thence S. 00 degrees 47' 48" W., 250.00 ft. along the East line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W., 247.55 ft. to the Point of beginning; run thence N. 00 degrees 53' 49.5" E., 234.40 ft. to a point established at the Mean High Water Line; continue along average Mean high Water Line:

S 89° 37' 37" W - 955.39 Feet
S 86° 45' 53" W - 502.23 Feet
S 65° 57' 43" W - 328.98 Feet
S 89° 41' 12" W - 1138.87 Feet
S 65° 04' 30" W - 176.71 Feet
N 89° 08' 58" W - 1300.17 Feet
S 79° 53' 06" W - 279.51 Feet
S 46° 20' 34" W - 209.43 Feet
S 09° 15' 57" W - 674.61 Feet

Run thence S 89 degrees 48' 37" E. 4874.40 ft. to a point on the W. side of the road easement; run thence N. 00 degrees 53' 49.5" E., 871.33 ft. to the Point of beginning.

A section of land lying in Section 9 and Section 10, Township 31 South, Range 18 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said Section 10, run thence S. 00 degrees 47' 48" W. a distance of 250.00 ft along the E. line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W. 247.55 ft. to a point on the E. property line and W. right-of-way line of County Road, run thence S. 00 degrees 53' 49.5" West along said right-of-way line a distance of 871.33 ft. to the point of beginning; run thence N. 89 degrees 48' 37" W. a distance of 4874.40 ft. to a point established as the Mean High Water Line; continue along all Mean High Water Line:

S 05° 50' 38" W - 680.15 Feet
S 25° 56' 57" E - 221.47 Feet
S 54° 37' 47" E - 126.51 Feet
N 89° 59' 49.1" E - 4060.26 Feet
S 03° 26' 40.5" E - 420.50 Feet

Run thence N. 89 degrees 06' 10.5" E a distance of 636.78' to a point; run thence North 00 degrees 54' 37" East a distance of 1,342.57 ft. to the point of beginning.

210.82 acres, MOL

EXHIBIT B

BIG BEND TRANSFER CO., LLC
LEASE/LICENSE AREA
(10/13/00)

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance 261.76 feet to a witness corner landward of a ships docking facility; thence continue S.00°49'26"W. and landward a distance of 273.19 feet for a POINT OF BEGINNING; thence S.89°48'37"E. a distance of 192.63 feet; thence S.00°45'29"W. a distance of 445.88 feet; thence N.89°46'20"W. a distance of 300.00 feet; thence N.44°47'10"W. a distance of 60.00 feet; thence S.89°40'06"W. a distance of 951.66 feet; thence N.04°10'00"E. a distance of 33.31 feet; thence N.06°07'34"E. a distance of 129.49 feet; thence N.10°26'31"E. a distance of 112.98 feet; thence N.12°23'07"E. a distance of 75.13 feet; thence N.20°52'51"E. a distance of 50.88 feet; thence N.54°57'00"E. a distance of 30.59 feet; thence S.89°48'37"E. a distance of 1011.19 feet to the POINT OF BEGINNING. Said tract contains 12.14 acres more or less.

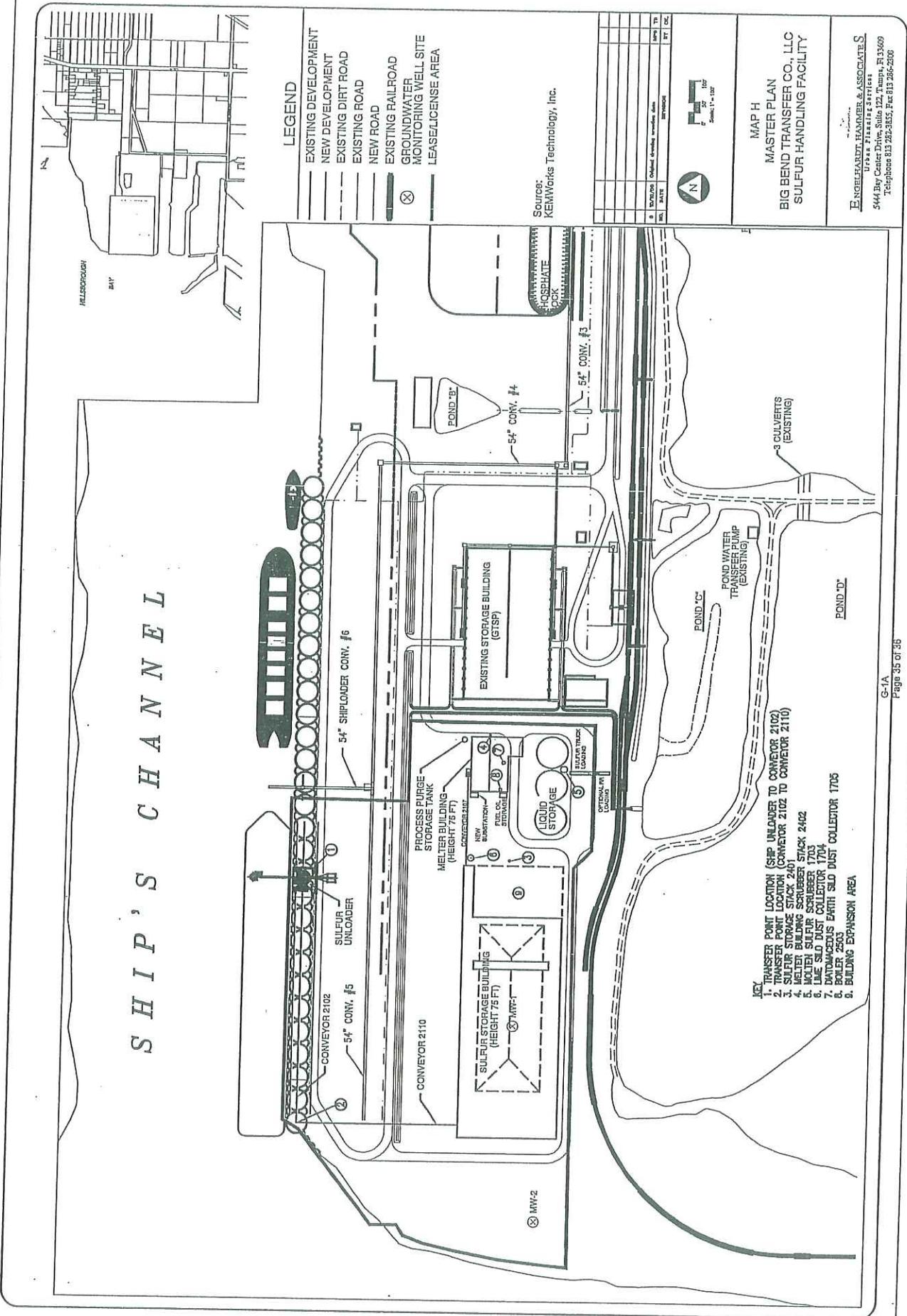
And

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance of 257.51 feet for a point of beginning; thence continue S.00°49'26"W. a distance of 277.44 feet; thence N.89°48'37"W. a distance of 1011.19 feet; thence N.00°00'00"W. 61.38 feet; thence N.51°48'43"E. a distance of 287.65 feet; thence N.28°22'55"E. a distance of 42.81 feet; thence S.89°49'34"E. a distance of 767.86 feet to the POINT OF BEGINNING. Said tract contains 5.79 acres more or less.

Total Lease/License area contains 17.93 acres more or less.

NOTE: The bearings used in this description are based upon deed in O.R. 5169 PG 169 and monuments recovered from survey by Watson & Co. dated December 9, 1972.

EXHIBIT C



- LEGEND**
- EXISTING DEVELOPMENT
 - - - NEW DEVELOPMENT
 - - - EXISTING DIRT ROAD
 - - - EXISTING ROAD
 - - - NEW ROAD
 - - - EXISTING RAILROAD
 - ⊗ GROUNDWATER MONITORING WELL SITE
 - ⊗ LEASE/LICENSE AREA

Source:
KEMWorks Technology, Inc.

NO.	DATE	DESCRIPTION	BY	CHK.
1	10/20/08	Original drawing	mmw	mmw
2	10/20/08	Original drawing	mmw	mmw
3	10/20/08	Original drawing	mmw	mmw
4	10/20/08	Original drawing	mmw	mmw
5	10/20/08	Original drawing	mmw	mmw
6	10/20/08	Original drawing	mmw	mmw
7	10/20/08	Original drawing	mmw	mmw
8	10/20/08	Original drawing	mmw	mmw
9	10/20/08	Original drawing	mmw	mmw
10	10/20/08	Original drawing	mmw	mmw



MAP H
MASTER PLAN
BIG BEND TRANSFER CO., LLC
SULFUR HANDLING FACILITY

ENGINEER: HEADNER & ASSOCIATES
URBAN PLANNING SERVICES
544 Bay Center Drive, Suite 122, Tampa, FL 33609
Telephone 813 282-2855, Fax 813 286-2930

- KEY:**
1. TRANSFER POINT LOCATION (SHIP UNLOADER TO CONVEYOR 2102)
 2. TRANSFER POINT LOCATION (CONVEYOR 2102 TO CONVEYOR 2110)
 3. SULFUR STORAGE STACK 2402
 4. MELTER BUILDING SCRUBBER STACK 2402
 5. MELTER SULFUR SCRUBBER 1703
 6. LIME SLD DUST COLLECTOR 1704
 7. DRYING/AGGREGATION BATH SLD DUST COLLECTOR 1705
 8. BLOWER 2503
 9. BUILDING EXPANSION AREA

ElMoeske, Big Bend, 9908191R1 ADVA9081_Map_H_Master_Plan.dwg, 9/27/2008 10:42:44 AM, ng, Engelhardt, Hammer & Associates, Inc.

EXHIBIT D

DEVELOPER'S AFFIDAVIT

STATE OF FLORIDA

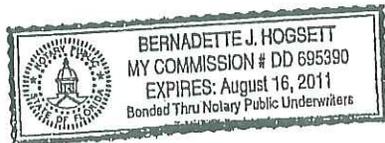
COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared Tim Butts to me well known, who being first duly sworn, says upon oath as follows:

1. He is a consultant for Big Bend Transfer Co., LLC, which has filed its Application for a Notice of Proposed Change (NOPC) to a Previously Approved Development of Regional Impact ("Application").
2. The aforementioned Application was filed with Hillsborough County, the State Department of Community Affairs and the Tampa Bay Regional Planning Council as required by law.


Tim Butts

Sworn to and subscribed before me this 24 day of September, 2009 by Tim Butts who is personally known to me.

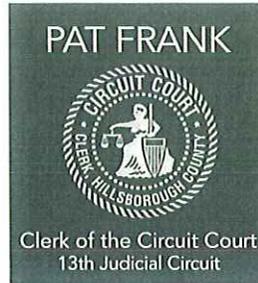



Notary Public


(Print, Type or Stamp)

My Commission Expires:

#245



September 29, 2008

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
4000 GATEWAY CENTER BLVD SUITE 100
PINELLAS PARK FL 33782

Re: Resolution No. R08-148 – Amended and Restated Development Order for Big Bend Transfer Company, LLC, Sulphur Handling Facility (DRI #245 f/k/a DRI #23/47)

Dear Mr. Meyer:

Attached is a certified original of referenced resolution, which was adopted by the Hillsborough County Board of County Commissioners on September 23, 2008.

We are providing this original for your files.

Sincerely,

Gail M. Letzring,
Manager, BOCC Records

bam

Certified Mail Receipt # 7003 3110 0004 4684 6814

Attachment

cc: Board files (orig.)
Ethel Hammer, Engelhardt, Hammer & Associates, Inc. (orig. ltr.)
Charles Gauthier, Chief, DCA Bureau of State Planning (orig. ltr.)
Nancy Y. Takemori, Assistant County Attorney
John Healey, Senior Planner, Planning and Growth Management
Sandra Davidson, County Attorney's Office
Christopher Weiss, Property Appraiser's Office
Mary Mahoney, Management and Budget

AMENDED AND RESTATED DEVELOPMENT ORDER

FOR DRI #245

(FORMERLY DRI NO. 23/47)

Resolution No. R08 - 148

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ISSUING AN AMENDED AND RESTATED DEVELOPMENT ORDER FOR A NOTICE OF PROPOSED CHANGE TO A DEVELOPMENT OF REGIONAL IMPACT, KNOWN AS THE BIG BEND TRANSFER COMPANY, LLC, SULFUR HANDLING FACILITY; DRI #245 (F/K/A DRI # 23/47)

Upon motion of Commissioner White, seconded by Commissioner Ferlita, the following Resolution was adopted by a vote of 7 to 0 on this 23rd day of September, 2008, Commissioner(s) _____ voting "no".

WHEREAS, on January 9, 1974, Agrico Chemical Company (now known as Mosaic Fertilizer, LLC, formerly known as IMC Phosphates Company), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners (the "BOCC") pursuant to the provisions of Section 380.06, Florida Statutes ("F.S."), as amended; and

WHEREAS, said application proposed construction of a phosphate terminal facility on approximately 210.82 acres, as described in **Exhibit "A"** attached hereto and incorporated herein by reference, located in unincorporated central Hillsborough County; and

WHEREAS, on March 27, 1974, the BOCC approved the application requesting a Development Order for the Big Bend Terminal Facility Development of Regional Impact ("DRI") No. 23 pursuant to the provisions of Section 380.06, F.S.; and

WHEREAS, on October 9, 1974, July 16, 1975 (designated DRI No. 47), September 6, 1978, November 26, 1980, September 2, 1981, August 18, 1982, and March 25, 1986, the

BOCC approved amendments to the Development Order, pursuant to the provisions of Section 380.06, F.S., (hereinafter the March 27, 1974, Development Order, as amended by the above-referenced amendments, shall be referred to as the "Development Order for DRI #23/47"); and

WHEREAS, the amendment to Development Order for DRI #23/47 approved by the BOCC on March 25, 1986, authorized the construction of a prilled sulfur handling facility, but said facility was never built; and

WHEREAS, the Development Order for DRI #23/47 has expired; and

WHEREAS, Big Bend Transfer Co., LLC, (the "Developer") is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend Inc.; and

WHEREAS, the Developer has leased/licensed an approximately 17.93 acre area of the Big Bend Terminal DRI site as identified by the legal description contained in **Exhibit "B"**, attached hereto and incorporated herein by reference, from Mosaic Fertilizer, LLC, (formerly known as IMC Phosphates Company, formerly known as IMC-Agrico Company), the fee simple owner of the DRI site; and

WHEREAS, it has been determined that the previously described 17.93-acre project herein constituted a substantial deviation to DRI #23/47 pursuant to Chapter 380, F.S.; and

WHEREAS, on April 20, 2000, the Developer filed an "Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact Subsection 380.06 (19), F.S." (the "ADA"), for the Big Bend Terminal DRI in accordance with Section 380.06 (19), F.S.; and

WHEREAS, the ADA proposed revisions to the Development Order for DRI #23/47 to allow up to 2 million long tons of solid sulfur to be imported annually to the site by ship or

barge, to be melted and provided to sulfur users in Central Florida, as more particularly stated in the ADA; and

WHEREAS, the proposed ADA amendments were only applicable to the approximately 17.93-acre area leased/licensed by the Developer and described in **Exhibit "B"**; and

WHEREAS, on December 12, 2000, January 9, 2001, and January 18, 2001, the BOCC held a duly noticed public hearing on the ADA and considered testimony, documents and evidence within the record made before the BOCC; and

WHEREAS, on January 18, 2001, the BOCC by a vote of 5-2 voted to approve the project with conditions; and

WHEREAS, the approval was challenged in Circuit Court by the citizen's group SAVE OUR BAYS, AIR & CANALS, Inc. ("SOBAC"); and

WHEREAS, on November 1, 2001, the Circuit Court granted the writ requested by SOBAC and remanded the matter back to BOCC finding that the Developer should have rezoned the property to a Planned Development zoning district; and

WHEREAS, on November 29, 2001, IMC Phosphates Company, (now known as Mosaic Fertilizer, LLC) the fee simple owner of the property on which the proposed sulfur handling facility would be constructed, submitted an application to rezone the entire 210.82 acres encompassed by DRI #23/47 from a Manufacturing district to a Planned Development district; and

WHEREAS, on March 26, 2002, the BOCC adopted Resolution No. R02-061, which reapproved the ADA, and concurrently rezoned the property from Manufacturing (M) to Planned Development (PD); and

WHEREAS, the BOCC adopted Resolution No. R04-085 on May 11, 2004 extending the project buildout date and Development Order expiration date to December 21, 2025; the required construction commencement date to March 16, 2009; and the deadline for dedication of land or cash donation for a fire station to March 16, 2009; and

WHEREAS, on June 16, 2008, Big Bend Transfer Company, LLC., filed an application for a Notice of Proposed Change ("NOPC") with the Hillsborough County Board of County Commissioners (the "BOCC") to the previously approved Development of Regional Impact (DRI) #245 (formerly DRI #23/47) known as the Big Bend Transfer Company, in accordance with Subsection 380.06(19), Florida Statutes ("F. S."), as amended; and

WHEREAS, the Developer seeks to extend the required construction commencement date to March 16, 2014; and the deadline for dedication of land or cash donation for a fire station to March 16, 2014; and

WHEREAS, the land encompassed within the NOPC lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the proposed NOPC is only applicable to the approximately 17.93-acre area leased/licensed by the Developer and described in **Exhibit "B"**; and

WHEREAS, the public notice requirements of Section 380.06, F.S., and the Hillsborough County Land Development Code (the "LDC"), as amended, have been satisfied; and

WHEREAS, the BOCC has received and considered the reports and recommendations of TBRPC, PGMD, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens.

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider NOPCs for DRIs and amendments; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING ASSEMBLED THIS 23rd DAY OF Sept., 2008, THAT THE THAT THE AMENDED AND RESTATED DEVELOPMENT ORDER FOR THE SULFUR HANDLING FACILITY (DRI #245) SUBMITTED BY THE DEVELOPER, IS HEREBY APPROVED WITH CONDITIONS, SAID APPROVAL BEING BASED UPON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

I. FINDINGS OF FACT

- A. The Developer is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend, Inc.
- B. The Developer has leased/licensed an approximate 17.93-acre area of the Big Bend Transfer Company DRI site, as identified by the legal description contained in **Exhibit "B"**, from Mosaic Fertilizer, LLC, (formerly known as IMC Phosphates Company), the fee simple owner of the DRI site.
- C. The authorized agent for Big Bend Transfer Company, LLC, is Mr. Ed Newberg.
- D. On June 16, 2008, the Developer submitted an NOPC to DRI #245 which requested amendments to the Development Order seeking the extension of the project's the required construction commencement date to March 16, 2014; and the deadline for dedication of land or cash donation for a fire station to March 16, 2014.
- E. The subject of this Amended and Restated Development Order (hereafter "Development

Order”) is the development of a Sulfur Handling Facility (hereinafter the "Facility"). The Facility will be located on the estimated 17.93-acre area of the Big Bend Terminal leased/licensed by the Developer, as described in **Exhibit "B"**.

- F. The land subject to this Development Order is wholly within the Coastal High Hazard Area (CHHA) and the Urban Service Area.
- G. The Facility is consistent with Policy 6.7 of the Coastal Management Element of the Future of Hillsborough Comprehensive Plan which states that new development is limited in the Coastal High Hazard Area to uses that are vested, water enhanced, water related, water dependent, or further the Port consistent with the Port Authority Master Plan and limit public expenditure.
- H. For purposes of DRI review, the Facility is an industrial land use pursuant to Section 380.0651, F.S., and Chapter 28-24, Florida Administrative Code ("F.A.C.").
- I. The Facility is not within an area of critical state concern as designated pursuant to Section 380.05, F.S.
- J. Subject to the conditions of this Development Order, the Facility will not adversely affect the state and regional resources identified in the State Comprehensive Plan, or the TBRPC Strategic Regional Policy Plan (entitled the "Future of the Region: A Strategic Regional Policy Plan"). Further, the Facility will not adversely impact adjacent jurisdictions or the availability of affordable housing.
- K. TBRPC, at the conclusion of its August 11, 2008 public meeting on its staff's review and recommendation of the NOPC, voted to recommend approval of the Facility, with conditions, to the BOCC.

- L. The information and data contained within the NOPC are sufficient for the BOCC to review the Facility as required by Section 380.06, F.S.
- M. On September 23, 2008, the BOCC held the required public hearings on the NOPC, heard all testimony offered and received evidence and documents pertaining to the Facility, including but not limited to the reports and recommendations of the TBRPC, the PGMD, and the Planning Commission.

II. CONCLUSIONS OF LAW

- A. After review by the BOCC of the various written and oral reports, memoranda and letters associated with the review of the Facility, the BOCC concludes that all statutory procedures have been adhered to and the impacts of the Facility are adequately addressed pursuant to the requirements of Section 380.06, F.S., within the terms and conditions of this Development Order.
- B. In considering whether the NOPC should be approved subject to various conditions, restrictions and limitations contained in the Development Order, the BOCC has considered the criteria stated in Chapter 380, F.S., and including those in subsection 380.06(14), F.S., and Chapter 9J-2, F.A.C.
- C. The Facility, as described in the NOPC, shall be subject to the terms of this Development Order and shall not be subject to future DRI review pursuant to Section 380.06, F.S., unless the BOCC determines that any proposed changes to the Facility constitute a substantial deviation pursuant to Section 380.06(19), F.S., and the conditions contained herein.
- D. Based on the compliance with the terms and conditions of this Development Order, the NOPC, together with the reports, recommendations and testimony heard and considered by the BOCC, it is concluded that:

1. The development approved hereby is consistent with the State Comprehensive Plan as a whole;
 2. The development does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area;
 3. The development is consistent with the TBRPC Future of the Region: A Strategic Regional Policy Plan;
 4. The development is consistent with the report and recommendations of TBRPC submitted pursuant to Subsection 380.06(12), Florida Statutes; and
 5. The development is consistent with the Comprehensive Plan of Hillsborough County and with the LDC.
- E. Based on the Hillsborough County Comprehensive Plan, Future Land Use Element and Map, the Facility is situated on land designated as a Heavy Industrial land use classification and is consistent therewith.
- F. As required by the Hillsborough County Comprehensive Plan and the LDC, the Facility is situated on land zoned Planned Development (PD) and is consistent therewith.

III. SPECIFIC CONDITIONS

- A. A revised Map "H", dated October 10, 2000, is adopted as part of this Development Order, and is attached hereto as **Exhibit "C"** and incorporated herein by reference.
- B. The following development is hereby authorized to be completed in a single phase buildout under the Development Order expiration date of December 21, 2025:

1. One (1) ship/barge unloader.
 2. A conveyor system.
 3. One (1) solid sulfur storage building totaling 154,000 square feet with a capacity of 78,000 tons.
 4. One (1) sulfur melting building totaling 17,100 square feet and three (3) solid sulfur melters .
 5. One (1) boiler.
 6. Three (3) liquid sulfur storage tanks with a capacity of 10,000 tons each.
 7. One (1) process/purge water storage tank.
 8. One (1) fuel oil storage tank with a capacity of 12,000 gallons and required secondary containment device.
 9. Four (4) liquid sulfur truck loading stations.
 10. One (1) caustic soda storage tank with a capacity of 7,500 gallons and secondary containment device.
 11. One (1) liquid sulfur rail car loading station.
 12. Miscellaneous support facilities which are ancillary to the Facility's operation (e.g., pipelines, offices) and intended to facilitate these uses.
- C. No in-water construction or development is authorized by this Development Order. Any proposal by the Developer to increase the depth of the access channel or dockside berths, or to increase the size of the draft vessels serving the Facility, shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.
- D. All new development shall comply with all applicable provisions of the Land Development Code.
- E. All development shall be in accordance with Chapters 62-296.411, 62-212.600, and 62-4,

F.A.C.

F. All development shall be consistent with Hillsborough County Environmental Protection Commission (the "EPC") Permit No. 0571244-001-AC. This permit and the authorization to construct the facility expired March 26, 2008. Pursuant to Rule 62-4.080, F. A. C., the applicant has requested an extension of that permit to March 26, 2011. The EPC will evaluate whether an extension without an evaluation of newly available control technology, as required by a new permit, would be in the public's best interest. Be advised, if construction of the said facility has not commenced by March 26, 2011, and no extensions have been granted, a new construction permit will be required for future authorization.

G. No more than 2 million (2,000,000) long tons of prilled sulfur per year may be brought into the Facility and converted to molten form, limited storage, and transport to sulfur users in central Florida. In each annual report the Developer shall identify the total amount of solid sulfur brought into the facility each reporting year.

H. SOILS

The Developer shall use Best Management Practices and the erosion control techniques listed on page 15-1 of the ADA 00-0775 during site preparation and construction, to include such measures as watering, straw bale barriers, and silt fences.

I. FLOODPLAINS

The floors of all structures located within the 100-year floodplain shall be constructed above the 100-year flood elevation as determined by the Federal Emergency Management Agency ("FEMA").

J. WATER SUPPLY

1. The Developer shall use non-potable "reclaimed" water within 30 days of being advised by Hillsborough County that it is available, and shall use it for all suitable uses to the maximum extent possible. The Big Bend Sulfur Handling Facility (DRI #245) and development on the Big Bend Terminal DRI site (DRI #23/47) shall not use more than the 62,000 gallons per day of potable water used by the Big Bend Terminal DRI prior to approval of the Big Bend Sulfur Handling Facility. In the event that reclaimed water is not available to service additional water needs for the Sulfur Handling Facility operations, the Developer shall use non-potable water from other sources, such as municipalities or BBTC member facilities, on an interim basis, until such time that reclaimed water becomes available.
2. The Developer shall utilize high-efficiency (low volume) plumbing fixtures and other water conserving devices.

K. WASTEWATER

1. New on-site sewage disposal systems (septic tanks) shall not be permitted. The Developer shall connect to the County's sanitary sewer system. The Developer may not seek hardship exceptions to this requirement as provided for in the Future of Hillsborough Comprehensive Plan and the LDC.
2. No industrial wastewater shall be disposed of on-site. "Process" water (also termed "scrubber" or "purge" water) shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC.

L. STORMWATER MANAGEMENT AND WATER QUALITY

1. The Facility shall utilize the existing stormwater facilities within DRI #23/47. The current standard of zero discharge of stormwater shall be maintained throughout the life of the Facility, in accordance with any permits issued by the Florida Department of Environmental Protection ("FDEP").
2. The Developer will operate and maintain the drainage system within the lease/licensed area as provided in the ADA after completion of the development.
3. The Developer will initiate water quality monitoring of the onsite stormwater ponds in accordance with FDEP permits. The parameters that shall be sampled for in the stormwater ponds shall include, but not be limited to, the following: (1) pH, (2) Temperature, (3) Dissolved Oxygen, (4) TRPH - Total Recoverable Petroleum Hydrocarbons, (5) Total Suspended Solids and (6) Total Nitrogen. Samples shall be taken four times per year, twice during the wet season and twice during the dry season. The results of the water quality monitoring shall be included in the project's Annual Report.
4. The Developer shall monitor groundwater conditions from one (1) location. The parameters to be monitored shall include Nitrate-N, Total Kjeldahl Nitrogen, Total Nitrogen, Total Phosphorous, and Total Dissolved Solids. The Developer shall report the findings of the monitoring program in the Annual Report.

M. SOLID WASTE/HAZARDOUS MATERIALS

1. The Developer will comply with all Superfund Amendment and Reauthorization Act (SARA), Title III requirements on the handling, storage and reporting of hazardous materials.

2. A Spill Prevention Control and Countermeasure Plan (the "Spill Plan") pursuant to Chapter 40, Code of Federal Regulations, Part 112, shall be developed prior to the operation of the Facility. Any petroleum spills will be handled in accordance with the Spill Plan. The Developer shall submit the Spill Plan for review and approval to the Hillsborough County Emergency Management Department prior to operation of the Facility. The Spill Plan shall be made available for review by the Occupational Safety and Health Administration.
3. No more than 7,500 gallons of Caustic Soda shall be stored at the Facility at any one time.
4. Secondary containment devices shall be constructed surrounding the fuel and Caustic Soda tanks.
5. All waste filter cake shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC, for disposal.
6. No hazardous waste shall be generated or stored at the Facility.

N. TRANSPORTATION

1. Under normal traffic conditions no trucks carrying sulfur from the Facility shall use Madison Avenue/Progress Boulevard. The Developer shall notify all trucking companies using the Facility of this requirement.
2. All trucks serving the Facility shall utilize truck routes designated by the County.
3. The cargo beds of vehicles transporting the cake filter wastes shall be covered with tarpaulins in order to prevent spillage.

O. AIR

1. The Developer shall use all equipment and/or techniques, or their equivalents, for air quality control as discussed in the ADA, including, but not limited to, vapor recovery and scrubbing, dust suppression spray, and dust collection throughout the life of the Facility.
2. The boiler utilized by the Facility shall burn very low sulfur (0.05%) #2 fuel oil.
3. The Facility shall use natural gas to operate the boiler for the solid sulfur melters if and when a natural gas pipeline is available to the west of U.S. 41 in the vicinity of Pembroke Avenue.
4. The Developer shall submit a new application to construct an air pollution source (DEP Form No. 62-210.900(1)) if construction has not commenced on the Facility by March 26, 2011.
5. The Developer shall submit an annual report to the EPC on or before December 30 of every year detailing the progress made towards commencement of construction of the Facility.

P. HURRICANE PREPAREDNESS

The Developer shall prepare a Hurricane Preparedness Plan and submit it to PGMD, TBRPC and the Florida Department of Community Affairs ("DCA") for review prior to operation of the Facility. At a minimum, such Hurricane Preparedness Plan shall be included in the first Annual Report following commencement of construction.

Q. ENERGY

All equipment used on the Facility site shall be designed to efficiently use energy.

R. VEGETATION and WILDLIFE

1. The Developer shall construct a "fendering system" for manatee protection on the dock serving the Facility pursuant to rules of the Florida Fish and Wildlife Conservation Commission ("FFWCC"). Permanent manatee information and/or awareness sign(s) shall be installed and maintained to increase boater awareness of the presence of manatees, and of the need to minimize the threat of boats to these animals. The signs shall be installed prior to the Facility opening and beginning operations, should be replaced in the event the signs fade or become damaged, and shall be maintained for the life of the facility. The number, type, and procedure for installation should be in accordance with "Permanent Manatee Signs," published by the Bureau of Protected Species Management.
2. In the event that any additional state or federally listed species or colonies of species are discovered using the project site for breeding, the Developer shall immediately notify the FFWCC and implement the recommended measures for species protection.
3. In the event that any in-water development is proposed, the Developer shall coordinate with the FFWCC to ensure that standard manatee construction conditions are followed for all in-water construction. Additionally, any in-water construction shall occur only during the times of year recommended by the FFWCC.

S. OPERATIONS

1. The Developer shall not unload, store, or manufacture at the Facility any sulfur products commonly known as vatted sulfur, crushed bulk sulfur or slated sulfur.
2. The Developer shall not dispose of any reclaimed, contaminated or waste sulfur at the Facility.
3. The Developer shall follow all applicable provisions of the Hillsborough County Fire Code and all recommendations of the Hillsborough County Fire Department as may be necessary for fire prevention and control at the Facility, and shall further provide adequate access for firefighting equipment to any berthed ships containing sulfur.
4. The Developer shall dedicate or cause the dedication of 2 acres of developable land to Hillsborough County, acceptable to the Hillsborough County Fire Department, for a HAZMAT (hazardous materials) fire facility within the boundaries of the Big Bend Terminal DRI (#23/47), or purchase 2 acres off-site within 2 miles of the DRI boundary. The conveyance of said 2 acres to Hillsborough County shall occur no later than March 16, 2014. Alternatively, at the County's election, the Developer will donate cash in an amount equal to the appraised value of the 2.5 acre Adamsville Fire Station located on Powell Road. The appraisal shall be performed at the Developer's sole cost and expense by an appraiser selected by the County. The conveyance of said two (2) acres or cash payment to Hillsborough County shall occur no later than March 16, 2014.
5. Prior to the operation of the facility, the Developer shall provide the County with evidence of an insurance policy with limits of \$1 million for any on-site environmental pollution and limits of \$10 million to cover any off-site liability or third party damage or claim including but not limited to the following situations:

the spill, discharge, dispersal, seepage, migration, release or escape of pollutants caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, or flood. Hillsborough County shall be named as an additional insured on the policy. The policy shall be annually renewed. A draft policy shall be provided to the County for review and approval at least 90 days prior to the Facility becoming operational.

Alternatively, if the insurance coverage listed above is no longer available, the Developer shall furnish the County with evidence of financial responsibility in the above amounts in sufficient detail satisfactory to the County's Division of Insurance and Claims and the County Attorney's Office.

IV. GENERAL PROVISIONS

- A. This Resolution shall constitute the Amended and Re-stated Development Order of Hillsborough County for DRI #245 for the Big Bend Transfer Co., LLC, Sulfur Handling Facility.
- B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of this Development Order.
- C. This Development Order is only applicable to the Developer's leased/licensed area, as described in **Exhibit "B."**
- D. All provisions or commitments made by the Developer within the ADA shall be considered conditions of this Development Order, unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.
- E. The definitions contained in Chapter 380, F.S., shall govern and apply to this

Development Order.

- F. This Development Order shall be binding upon the Developer, its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on the Developer by this Development Order. It is understood that any reference herein to any governmental agency shall be construed to include any future instrumentality that may be created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.

- G. Physical development of the Facility shall begin no later than March 16, 2014, provided that the Developer has received all necessary, final and nonappealable permits to do so. In the event that the Developer has not timely received all necessary, final and nonappealable permits to commence construction of the Facility within the timeframe specified above for any reason beyond the Developer's control, then the development of the project shall commence within sixty (60) days after receipt of all necessary, final and nonappealable permits to do so.

- H. The project shall be developed as a single phase with a buildout of December 21, 2025, or whenever all proposed development is completed, whichever occurs first.

- I. This Development Order shall remain in effect for a period up to and including December 21, 2025, or at project buildout, whichever occurs first. Any development activity for which plans have been submitted to the County for its review and approval prior to the expiration date of this Development Order may be completed, if approved. This Development Order may be extended by the BOCC consistent with the requirements of Subsection 380.06(19), F.S. It is recognized that operation of the Facility may continue indefinitely after project buildout and expiration of the Development Order. However, no new development may occur after the expiration of the Development Order. Any new development proposed after the expiration of the Development Order shall require a substantial deviation determination.

- J. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to review development of regional impact applications as well as all governmental agencies and departments set forth under applicable laws and rules governing developments of regional impact.
- K. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.
- L. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County LDC.
- M. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable

rules, regulations and ordinances in effect at the time of the review.

- N. Except as otherwise provided herein, the previously approved Development Order for DRI #23/47 and amendments thereto for the Big Bend Terminal DRI shall remain unchanged.

- O. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2025, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this 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.

- P. The Developer shall file an annual report in accordance with the requirements of Section 380.06 (18), F.S., on Form RPM-BSP-ANNUAL REPORT-1. The annual report shall contain all information required by that form and Subsection 91-2.025(7), F.A.C. The annual report shall be due on the anniversary of the effective date of this Development Order for each following year until completion of all construction as proposed in the NOPC and all terms and conditions of this Development Order are satisfied. The annual report shall be submitted to the County Administrator, and all other entities as specified in Section 380.06(18), F.S. The County Administrator shall, after appropriate review, submit the annual report for review by the BOCC. The BOCC shall review the report for compliance with the terms and conditions of this Development Order and may issue further orders and conditions to insure compliance with the terms and conditions of the Development Order. The Developer shall be notified of any BOCC hearing wherein such report is to be reviewed. The receipt and review by the BOCC of the Annual Report shall not be considered a substitute or waiver of any terms or conditions of the Development Order.

- Q. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if the Developer and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.
- R. In connection with all regulatory permits required in the future for the Facility, the Developer shall be required to comply with all laws, rules and regulations in effect at the time the Developer submits complete and sufficient permit applications(s). However, except as expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and the Developer shall retain its rights under Section 163.3167(8), F.S.
- S. The Developer shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.
- T. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.
- U. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex-Officio Clerk to the BOCC by certified mail to DCA, TBRPC, and the Developer.
- V. The Developer has certified that full and complete copies of the NOPC have been delivered to all persons required by law pursuant to the "Developer's Affidavit," attached hereto and incorporated herein as **Exhibit "D."**

- W. Any headings contained in this Development Order are for informational purposes only and shall not be construed as limiting or defining any term or condition contained in this Development Order.

- X. All actions tied to the effective date of this Development Order shall be tolled during any period this Development Order may be on appeal pursuant to Section 380.07, F.S., subject to any other judicial or administrative challenge, and during the pendency of administrative or judicial proceedings related to any permits necessary or required for the Facility.

STATE OF FLORIDA COUNTY
OF HILLSBOROUGH

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the BOCC of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of September 23, 2008, as the same appears of record in Minute Book 388 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 29th day of Sept., 2008.

PAT FRANK, CLERK

By: Beverly Anne Miller

Deputy Clerk



APPROVED BY COUNTY ATTORNEY

By: Doug Walker
Assistant County Attorney

Approved as to form and legal sufficiency

EXHIBIT A

BIG BEND TRANSFER CO., LLC,

LEGAL DESCRIPTION

A parcel of land lying in fractional Section 9 and Westerly thereof and in Section 10, Township 31 South, Range 19 East, Hillsborough County, Florida, described as follows: Beginning at the Northeast corner of Section 9, Township 31 South, Range 19 East, Hillsborough County, Florida, run thence South 89° 48' 37" East along the North line of Section 10 a distance of 1074.85 feet to a point; run thence South 00° 53' 49.5" West along the Westerly boundary of that certain public road right-of-way and a Northerly extension thereof as established by that certain Right-of-way Deed recorded April 12, 1971 in Official Record Book 2296 on page 629, a distance of 1,121.34 feet; run thence North 89° 48' 37" West a distance of 5033.29 feet to a point on the Hillsborough County Bulkhead Line as established by the Board of County Commissioners of Hillsborough County, Florida on March 23, 1960, by resolution as recorded in Minute Book 32 of said commission and as shown by that certain map recorded in Plat Book 36 on page 91; run thence North 00° 49' 03" East along said Bulkhead Line a distance of 1,121.32 feet to a point on the Westerly extensions of the North line of said Section 9; run thence South 89° 48' 37" East along the North line of said Section 9 and the Westerly extension thereof a distance of 3960.00 feet to the point of beginning.

A parcel of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said section 10, run thence S. 00 degrees 47' 48" W., 250.00 ft. along the East line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W., 247.55 ft. to the Point of beginning; run thence N. 00 degrees 53' 49.5" E., 234.40 ft. to a point established at the Mean High Water Line; continue along average Mean high Water Line:

S 89° 37' 37" W - 955.39 Feet
S 86° 45' 53" W - 502.23 Feet
S 65° 57' 43" W - 328.98 Feet
S 89° 41' 12" W - 1138.87 Feet
S 65° 04' 30" W - 176.71 Feet
N 89° 08' 58" W - 1300.17 Feet
S 79° 53' 06" W - 279.51 Feet
S 46° 20' 34" W - 209.43 Feet
S 09° 15' 57" W - 674.61 Feet

Run thence S 89 degrees 48' 37" E. 4874.40 ft. to a point on the W. side of the road easement; run thence N. 00 degrees 53' 49.5" E., 871.33 ft. to the Point of beginning.

A section of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said Section 10, run thence S. 00 degrees 47' 48" W. a distance of 250.00 ft along the E. line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W. 247.55 ft. to a point on the E. property line and W. right-of-way line of County Road, run thence S. 00 degrees 53' 49.5" West along said right-of-way line a distance of 871.33 ft. to the point of beginning; run thence N. 89 degrees 48' 37" W. a distance of 4874.40 ft. to a point established as the Mean High Water Line; continue along all Mean High Water Line:

S 05° 50' 38" W - 680.15 Feet
S 25° 56' 57" E - 221.47 Feet
S 54° 37' 47" E - 112.56 Feet
S 89° 43' 30.7" E - 3222.44 Feet
S 89° 43' 28.9" E - 409.98 Feet

Run thence S. 89 degrees 53' 19.2" E a distance of 1075.68' to a point; run thence North 00 degrees 59' 17" East a distance of 652.41 ft. run North 01 degrees, 05' 06.5", a distance of 292.09 feet to the point of beginning.

210.82 acres, MOL

EXHIBIT B

BIG BEND TRANSFER CO., LLC
LEASE/LICENSE AREA
(10/13/00)

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance 261.76 feet to a witness corner landward of a ships docking facility; thence continue S.00°49'26"W. and landward a distance of 273.19 feet for a POINT OF BEGINNING; thence S.89°48'37"E. a distance of 192.63 feet; thence S.00°45'29"W. a distance of 445.88 feet; thence N.89°46'20"W. a distance of 300.00 feet; thence N.44°47'10"W. a distance of 60.00 feet; thence S.89°40'06"W. a distance of 951.66 feet; thence N.04°10'00"E. a distance of 33.31 feet; thence N.06°07'34"E. a distance of 129.49 feet; thence N.10°26'31"E. a distance of 112.98 feet; thence N.12°23'07"E. a distance of 75.13 feet; thence N.20°52'51"E. a distance of 50.88 feet; thence N.54°57'00"E. a distance of 30.59 feet; thence S.89°48'37"E. a distance of 1011.19 feet to the POINT OF BEGINNING. Said tract contains 12.14 acres more or less.

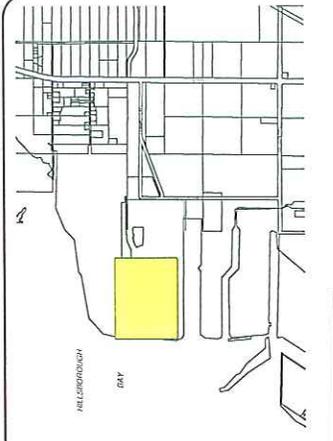
And

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance of 257.51 feet for a point of beginning; thence continue S.00°49'26"W. a distance of 277.44 feet; thence N.89°48'37"W. a distance of 1011.19 feet; thence N.00°00'00"W. 61.38 feet; thence N.51°48'43"E. a distance of 287.65 feet; thence N.28°22'55"E. a distance of 42.81 feet; thence S.89°49'34"E. a distance of 767.86 feet to the POINT OF BEGINNING. Said tract contains 5.79 acres more or less.

Total Lease/License area contains 17.93 acres more or less.

NOTE: The bearings used in this description are based upon deed in O.R. 5169 PG 169 and monuments recovered from survey by Watson & Co. dated December 9, 1972.

SHIP'S CHANNEL

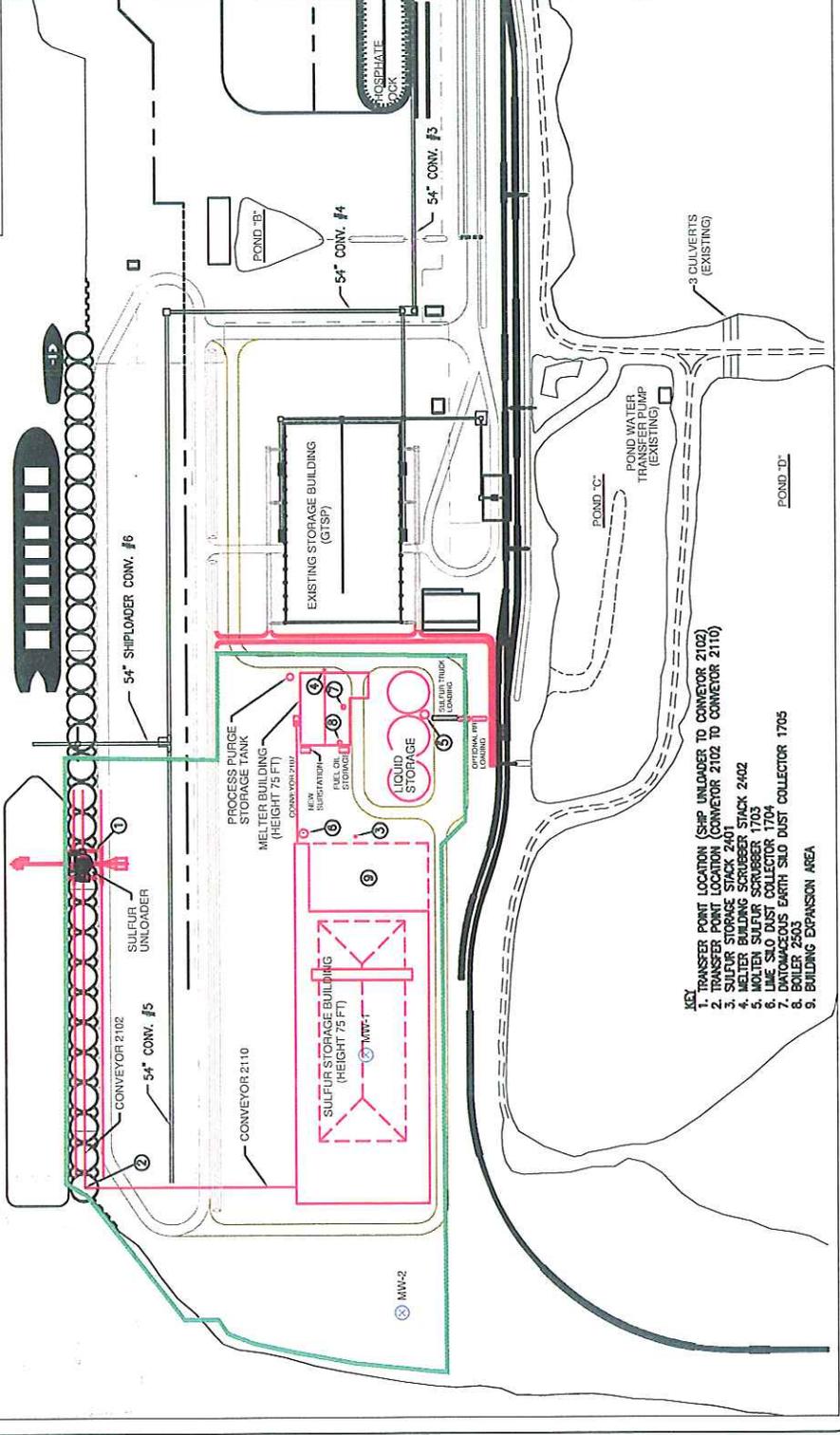


LEGEND

- EXISTING DEVELOPMENT
- NEW DEVELOPMENT
- EXISTING DIRT ROAD
- EXISTING ROAD
- NEW ROAD
- EXISTING RAILROAD
- GROUNDWATER MONITORING WELL SITE
- LEASE/LICENSE AREA

Source: KEMWorks Technology, Inc.

NO.	DATE	DESCRIPTION	BY	CS.
1	10/20/08	Original drawing available data	HW/MSD/ML	



- KEY:**
1. TRANSFER POINT LOCATION (SHP UNLOADER TO CONVEYOR 2102)
 2. TRANSFER POINT LOCATION (CONVEYOR 2102 TO CONVEYOR 2110)
 3. SULFUR STORAGE STACK 2401
 4. MELTER BUILDING SCRUBBER STACK 2402
 5. MOLTEN SULFUR SCRUBBER 1703
 6. LIME SILO DUST COLLECTOR 1704
 7. DYNAMIC/CEOUS EARTH SILO DUST COLLECTOR 1705
 8. BOILER 2503
 9. BUILDING EXPANSION AREA



MAP H
MASTER PLAN
BIG BEND TRANSFER CO., LLC
SULFUR HANDLING FACILITY

E. ENGELHARDT, HAMMER & ASSOCIATES
 Master Planning Services
 5444 Bay Center Drive, Suite 122, Tampa, FL 33609
 Telephone 813 282-8855, Fax 813 286-2388

EXHIBIT D

DEVELOPER'S AFFIDAVIT

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared Tim Butts to me well known, who being first duly sworn, says upon oath as follows:

1. He is a consultant for Big Bend Transfer Co., LLC, which has filed its Application for a Notice of Proposed Change (NOPC) to a Previously Approved Development of Regional Impact ("Application").
2. The aforementioned Application was filed with Hillsborough County, the State Department of Community Affairs and the Tampa Bay Regional Planning Council as required by law.


Tim Butts

Sworn to and subscribed before me this 3 day of September, 2008 by Tim Butts who is personally known to me.

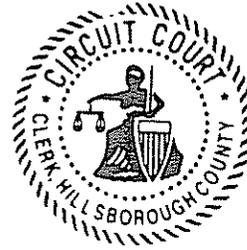

Notary Public

VIVIAN B. MATHEWS
Notary Public, State of Florida
My comm. exp. Oct. 31, 2010
Comm. No. DD 607539
(Print, Type or Stamp)

My Commission Expires:

#245

Richard Ake
Clerk of the Circuit Court
Hillsborough County, Florida



P.O. Box 1110
Tampa, Florida 33601
Telephone (813) 276-8100

June 4, 2004

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
9455 KOGER BOULEVARD SUITE 219
ST PETERSBURG FL 33702

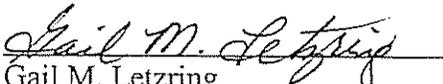
Re: Resolution No. R04-085 - Amending the Development Order for Big Bend Transfer Company LLC, Sulfur Handling Facility (DRI #245)

Dear Mr. Meyer:

Attached is a certified original of referenced resolution, which was adopted by the Hillsborough County Board of County Commissioners on May 11, 2004.

We are providing this original for your files.

Sincerely,


Gail M. Letzring,
Manager, BOCC Records

md

Attachment

Certified Mail 7002 2410 0001 4265 0365

cc: Board files (orig.)
Ethel Hammer of Englehardt, Hammer & Associates, Attorney at Law
Charles Gauthier, Chief, DCA Bureau of State Planning
Susan Fernandez, Senior Assistant County Attorney
John Healy, Senior Planner, Planning & Growth Management
Barbara Hutcheson, County Attorney's Office
Jim Glaros, Assistant Chief Deputy, Valuation, Property Appraiser's Office

AMENDED AND RE-STATED DEVELOPMENT ORDER

FOR DRI # 245

(FORMERLY DRI NO. 23/47)

Resolution No. R04-085

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ISSUING AN AMENDED AND RE-STATED DEVELOPMENT ORDER FOR A NOTICE OF PROPOSED CHANGE TO A DEVELOPMENT OF REGIONAL IMPACT, KNOWN AS THE BIG BEND TRANSFER COMPANY, LLC, SULFUR HANDLING FACILITY; DRI #245.

Upon motion of Commissioner Norman, seconded by Commissioner Castor, the following Resolution was adopted by a vote of 6 to 1 on this 11th day of May, 2004.

WHEREAS, on January 9, 1974, Agrico Chemical Company (now known as IMC Phosphates Company), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners (the "BOCC") pursuant to the provisions of Section 380.06, Florida Statutes ("F.S."), as amended; and

WHEREAS, said application proposed construction of a phosphate terminal facility on approximately 210.82 acres, as described in Exhibit "A" attached hereto and incorporated herein by reference, located in unincorporated central Hillsborough County; and

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact and amendments; and

WHEREAS, on March 27, 1974, the BOCC approved petition No. 74-5 requesting a Development Order for the Big Bend Terminal Facility Development of Regional Impact ("DRI") No. 23 pursuant to the provisions of Section 380.06, F.S.; and

WHEREAS, on October 9, 1974, July 16, 1975 (designated DRI No. 47), September 6, 1978, November 26, 1980, September 2, 1981, August 18, 1982, and March 25, 1986, the BOCC approved amendments to the Development Order, pursuant to the provisions of Section 380.06, F.S., (hereinafter the March 27, 1974, Development Order, as amended by the above-referenced amendments, shall be referred to as the "Development Order for DRI #23/47"); and

WHEREAS, the amendment to Development Order for DRI #23/47 approved by the BOCC on March 25, 1986, authorized the construction of a prilled sulfur handling facility, but said facility was never built; and

WHEREAS, the Development Order for DRI #23/47 has expired; and

WHEREAS, Big Bend Transfer Co., LLC, (the "Developer") is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and MC Big Bend Inc.; and

WHEREAS, the Developer has leased/licensed an approximately 17.93 acre area of the Big Bend Terminal DRI site as identified by the legal description contained in Exhibit "B", attached hereto and incorporated herein by reference, from IMC Phosphates Company (formerly known as IMC-Agrico Company), the fee simple owner of the DRI site; and

WHEREAS, it has been determined that the previously described 17.93-acre project herein constituted a substantial deviation to DRI #23/47 pursuant to Chapter 380, F.S.; and

WHEREAS, on April 20, 2000, the Developer filed an "Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact Subsection 380.06 (19), F.S." (the "ADA"), for the Big Bend Terminal DRI in accordance with Section 380.06 (19), F.S.; and

WHEREAS, the ADA proposed revisions to the Development Order for DRI #23/47 to allow up to 2 million long tons of solid sulfur to be imported annually to the site by ship or barge, to be melted and provided to sulfur users in Central Florida, as more particularly stated in the ADA; and

WHEREAS, a comprehensive review of the impacts generated by the project was conducted by all applicable state, regional and local agencies; and

WHEREAS, the proposed amendments to the Development Order for DRI #23/47 are only applicable to the approximately 17.93-acre area leased/licensed by the Developer and described in Exhibit "B"; and

WHEREAS, the land encompassed within the ADA lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the public notice requirements of Section 380.06, F. S., and the Hillsborough County Land Development Code (the "LDC"), as amended, have been satisfied; and

WHEREAS, on October 23, 2000, the Zoning Hearing Master appointed pursuant to the LDC conducted a duly-noticed public hearing on the ADA, at which the reports and recommendations of the Tampa Bay Regional Planning Council ("TBRPC"), the Hillsborough County Planning and Growth Management Department ("PGMD"), the Hillsborough County City-County Planning Commission (the "Planning Commission"), and other testimony, documents and evidence were received and considered; and

WHEREAS, on November 14, 2000, the Zoning Hearing Master filed a report and recommendation of approval with the BOCC; and

WHEREAS, on December 12, 2000, January 9, 2001, and January 18, 2001, the BOCC held a duly noticed public hearing on the ADA and considered testimony, documents and evidence within the record made before the BOCC; and

WHEREAS, on January 18, 2001, the BOCC by a vote of 5-2 voted to approve the project with conditions; and

WHEREAS, the approval was challenged in Circuit Court by the citizen's group SAVE OUR BAYS, AIR & CANALS, Inc. ("SOBAC"); and

WHEREAS, on November 1, 2001, the Circuit Court granted the writ requested by SOBAC and remanded the matter back to BOCC finding that the Developer should have rezoned the property to a Planned Development zoning district; and

WHEREAS, on November 29, 2001, IMC Phosphates Company, the fee simple owner of the property on which the proposed sulfur handling facility would be constructed, submitted an application to rezone the entire 210.82 acres encompassed by DRI 23/47 from a Manufacturing district to a Planned Development district; and

WHEREAS, on February 18, 2002, the Zoning Hearing Master conducted a duly noticed public hearing on the rezoning application, at which the reports and recommendations of PGMD and the Planning Commission, and other testimony, documents and evidence were received and considered; and

WHEREAS, on March 11, 2002, the Zoning Hearing Master filed a report and recommendation of approval with the BOCC of the rezoning of the subject property to a Planned Development district; and

WHEREAS, on March 26, 2002, the BOCC held a duly noticed public hearing on the rezoning application and ADA and the BOCC by a vote of 5-2 voted to again approve the project with conditions; and

WHEREAS, the BOCC has received and considered the reports and recommendations of the Zoning Hearing Master, TBRPC, the Planning Commission, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens; and

WHEREAS, on February 3, 2004, Big Bend Transfer Company, LLC., filed an application for a Notice of Proposed Change ("NOPC") with the Hillsborough County Board of County Commissioners (the "BOCC") to the previously approved Development of Regional Impact (DRI) #245 (formerly DRI #23/47) known as the Big Bend Transfer Company, in accordance

with Subsection 380.06(19), Florida Statutes ("F. S."), as amended; and

WHEREAS, the land encompassed within the NOPC lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the public notice requirements of Section 380.06, F.S., and the Hillsborough County Land Development Code (the "LDC"), as amended, have been satisfied; and

WHEREAS, the BOCC has received and considered the reports and recommendations of TBRPC, PGMD, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens; and

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider NOPCs for DRIs and amendments.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING ASSEMBLED THIS 11th DAY OF MAY, 2004, THAT THE AMENDED AND RE-
STATED DEVELOPMENT ORDER FOR THE SULFUR HANDLING FACILITY (DRI #245) SUBMITTED BY THE DEVELOPER, IS HEREBY APPROVED WITH CONDITIONS, SAID APPROVAL BEING BASED UPON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

I. FINDINGS OF FACT

- A. The Developer is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend, Inc.
- B. The Developer has leased/licensed an approximate 17.93-acre area of the Big Bend Transfer Company DRI site, as identified by the legal description contained in Exhibit "B", from IMC Phosphates Company, the fee simple owner of the DRI site.
- C. The authorized agent for IMC Big Bend-Transfer Company, LLC, is Mr. Ed Newberg.
- D. On February 3, 2004, the Developer submitted an NOPC to DRI #245 which requested amendments to the Development Order seeking the extension of the project buildout date and Development Order expiration date to December 21, 2025; the required construction commencement date to March 16, 2009; and the deadline for dedication of land or cash donation for a fire station to March 16, 2009.
- E. The subject of this Development Order is the development of a Sulfur Handling Facility (hereinafter the "Facility"). The Facility will be located on the estimated 17.93-acre area of the Big Bend Terminal leased/licensed by the Developer, as described in Exhibit "B".
- F. The land subject to this Development Order is wholly within the Coastal High Hazard Area (CHHA) and the Urban Service Area.
- G. The Facility is consistent with Policy 6.7 of the Coastal Management Element of the Future of Hillsborough Comprehensive Plan which states that new development is limited in the Coastal High Hazard Area to uses that are vested, water enhanced, water related, water dependent, or further the Port consistent with the Port Authority Master Plan and limit public expenditure.

- H. For purposes of DRI review, the Facility is an industrial land use pursuant to Section 380.0651, F.S., and Chapter 28-24, Florida Administrative Code ("F.A.C.").
- I. The Facility is not within an area of critical state concern as designated pursuant to Section 380.05, F.S.
- J. Subject to the conditions of this Development Order, the Facility will not adversely affect the state and regional resources identified in the State Comprehensive Plan, or the TBRPC Strategic Regional Policy Plan (entitled the "Future of the Region: A Strategic Regional Policy Plan"). Further, the Facility will not adversely impact adjacent jurisdictions or the availability of affordable housing.
- K. TBRPC, at the conclusion of its March 8, 2004 public meeting on its staff's review and recommendation of the NOPC, voted to recommend approval of the Facility, with conditions, to the BOCC.
- L. The information and data contained within the NOPC are sufficient for the BOCC to review the Facility as required by Section 380.06, F.S.
- M. On May 11, 2004, the BOCC held the required public hearings on the NOPC, heard all testimony offered and received evidence and documents pertaining to the Facility, including but not limited to the reports and recommendations of the TBRPC, the PGMD, and the Planning Commission.

II. CONCLUSIONS OF LAW

- A. After review by the BOCC of the various written and oral reports, memoranda and letters associated with the review of the Facility, the BOCC concludes that all statutory procedures have been adhered to and the impacts of the Facility are adequately addressed pursuant to the requirements of Section 380.06, F.S., within the terms and conditions of this Development Order.

- B. In considering whether the NOPC should be approved subject to various conditions, restrictions and limitations contained in the Development Order, the BOCC has considered the criteria stated in Chapter 380, F.S., and including those in subsection 380.06(14), F.S., and Chapter 9J-2, F.A.C.
- C. The Facility, as described in the NOPC, shall be subject to the terms of this Development Order and shall not be subject to future DRI review pursuant to Section 380.06, F.S., unless the BOCC determines that any proposed changes to the Facility constitute a substantial deviation pursuant to Section 380.06(19), F.S., and the conditions contained herein.
- D. Based on the compliance with the terms and conditions of this Development Order, the NOPC, together with the reports, recommendations and testimony heard and considered by the BOCC, it is concluded that:
1. The development approved hereby is consistent with the State Comprehensive Plan as a whole;
 2. The development does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area;
 3. The development is consistent with the TBRPC Future of the Region: A Strategic Regional Policy Plan;
 4. The development is consistent with the report and recommendations of TBRPC submitted pursuant to Subsection 380.06(12), Florida Statutes; and
 5. The development is consistent with the Comprehensive Plan of Hillsborough County and with the LDC.
- E. Based on the Hillsborough County Comprehensive Plan, Future Land Use Element and Map,

the Facility is situated on land designated as a Heavy Industrial land use classification and is consistent therewith.

- F. As required by the Hillsborough County Comprehensive Plan and the LDC, the Facility is situated on land zoned Planned Development (PD) and is consistent therewith.

III. SPECIFIC CONDITIONS

- A. Map "H", dated October 10, 2000, is adopted as part of this Development Order, and is attached hereto as Exhibit "C" and incorporated herein by reference.

- B. The following development is hereby authorized to be completed in a single phase buildout under the Development Order expiration date of December 21, 2025:

1. One (1) ship/barge unloader.
2. A conveyor system.
3. One (1) solid sulfur storage building totaling 154,000 square feet with a capacity of 78,000 tons.
4. One (1) sulfur melting building totaling 17,100 square feet and three (3) solid sulfur melters.
5. One (1) boiler.
6. Three (3) liquid sulfur storage tanks with a capacity of 10,000 tons each.
7. One (1) process/purge water storage tank.

8. One (1) fuel oil storage tank with a capacity of 12,000 gallons .
 9. Four (4) liquid sulfur truck loading stations.
 10. One (1) caustic soda storage tank with a capacity of 7,500 gallons.
 11. One (1) liquid sulfur rail car loading station.
 12. Miscellaneous support facilities which are ancillary to the Facility's operation (e.g., pipelines, offices).
- C. No in-water construction or development is authorized by this Development Order. Any proposal by the Developer to increase the depth of the access channel or dockside berths, or to increase the size of the draft vessels serving the Facility, shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.
- D. All new development shall comply with all applicable provisions of the Land Development Code.
- E. All development shall be in accordance with Chapters 62-296.411, 62-212.600, and 62-4, F.A.C.
- F. All development shall be consistent with Hillsborough County Environmental Protection Commission (the "EPC") Permit No. 0571244-001-AC.

This permit and the authorization to construct the facility expires March 26, 2005. Pursuant to Rule 62-4.080, F. A. C., the applicant may request an extension of the expiration date of the permit to EPC. EPC will evaluate whether an extension without an evaluation of newly available control technology, as required by a new permit, would be in the public's best interest. If construction of the said facility has not commenced by March 26, 2005, and no extensions have

been granted, a new construction permit will be required for future authorization.

- G. No more than 2 million (2,000,000) long tons of prilled sulfur per year may be brought into the Facility. In each annual report the Developer shall identify the total amount of solid sulfur brought into the facility each reporting year.

- H. SOILS

The Developer shall use Best Management Practices and the erosion control techniques listed on page 15-1 of the ADA during site preparation and construction.

- I. FLOODPLAINS

The floors of all structures located within the 100-year floodplain shall be constructed above the 100-year flood elevation as determined by the Federal Emergency Management Agency ("FEMA").

- J. WATER SUPPLY

1. The Developer shall use non-potable "reclaimed" water within 30 days of being advised by Hillsborough County that it is available, and shall use it for all suitable uses to the maximum extent possible. The Big Bend Sulfur Handling Facility (DRI #245) and development on the Big Bend Terminal DRI site (DRI #23/47) shall not use more than the 62,000 gallons per day of potable water used by the Big Bend Terminal DRI prior to approval of the Big Bend Sulfur Handling Facility. In the event that reclaimed water is not available to service additional water needs for the Sulfur Handling Facility operations, the Developer shall use non-potable water from other sources, such as municipalities or BBTC member facilities, on an interim basis, until such time that reclaimed water becomes available.
2. The Developer shall utilize high-efficiency (low volume) plumbing fixtures and other

water conserving devices.

K. WASTEWATER

1. New on-site sewage disposal systems (septic tanks) shall not be permitted. The Developer shall connect to the County's sanitary sewer system. The Developer may not seek hardship exceptions to this requirement as provided for in the Future of Hillsborough Comprehensive Plan and the LDC.
2. No industrial wastewater shall be disposed of on-site. "Process" water (also termed "scrubber" or "purge" water) shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC.

L. STORMWATER MANAGEMENT AND WATER QUALITY

1. The Facility shall utilize the existing stormwater facilities within DRI #23/47. The current standard of zero discharge of stormwater shall be maintained throughout the life of the Facility, in accordance with any permits issued by the Florida Department of Environmental Protection ("FDEP").
2. The Developer will operate and maintain the drainage system within the lease/licensed area as provided in the ADA after completion of the development.
3. The Developer will initiate water quality monitoring of the onsite stormwater ponds in accordance with FDEP permits. The parameters that shall be sampled for in the stormwater ponds shall include, but not be limited to, the following: (1) pH, (2) Temperature, (3) Dissolved Oxygen, (4) TRPH - Total Recoverable Petroleum Hydrocarbons, (5) Total Suspended Solids and (6) Total Nitrogen. Samples shall be taken four times per year, twice during the wet season and twice during the dry season. The results of the water quality monitoring shall be included in the project's Annual Report.

4. The Developer shall monitor groundwater conditions from one (1) location. The parameters to be monitored shall include Nitrate-N, Total Kjeldahl Nitrogen, Total Nitrogen, Total Phosphorous, and Total Dissolved Solids. The Developer shall report the findings of the monitoring program in the Annual Report.

M. SOLID WASTE/HAZARDOUS MATERIALS

1. The Developer will comply with all Superfund Amendment and Reauthorization Act (SARA), Title III requirements on the handling, storage and reporting of hazardous materials.
2. A Spill Prevention Control and Countermeasure Plan (the "Spill Plan") pursuant to Chapter 40, Code of Federal Regulations, Part 112, shall be developed prior to the operation of the Facility. Any petroleum spills will be handled in accordance with the Spill Plan. The Developer shall submit the Spill Plan for review and approval to the Hillsborough County Emergency Management Department prior to operation of the Facility. The Spill Plan shall be made available for review by the Occupational Safety and Health Administration.
3. No more than 7,500 gallons of Caustic Soda shall be stored at the Facility at any one time.
4. Secondary containment devices shall be constructed surrounding the fuel and Caustic Soda tanks.
5. All waste filter cake shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC, for disposal.
6. No hazardous waste shall be generated or stored at the Facility.

N. TRANSPORTATION

1. Under normal traffic conditions no trucks carrying sulfur from the Facility shall use Madison Avenue/Progress Boulevard. The Developer shall notify all trucking companies using the Facility of this requirement.
2. All trucks serving the Facility shall utilize truck routes designated by the County.
3. The cargo beds of vehicles transporting the cake filter wastes shall be covered with tarpaulins in order to prevent spillage.

O. AIR

1. The Developer shall use all equipment and/or techniques, or their equivalents, for air quality control as discussed in the ADA, including, but not limited to, vapor recovery and scrubbing, dust suppression spray, and dust collection throughout the life of the Facility.
2. The boiler utilized by the Facility shall burn very low sulfur (0.05%) #2 fuel oil.
3. The Facility shall use natural gas to operate the boiler for the solid sulfur melters if and when a natural gas pipeline is available to the west of U.S. 41 in the vicinity of Pembroke Avenue.

P. HURRICANE PREPAREDNESS

The Developer shall prepare a Hurricane Preparedness Plan and submit it to PGMD, TBRPC and the Florida Department of Community Affairs ("DCA") for review prior to operation of the Facility. At a minimum, such Hurricane Preparedness Plan shall be included in the first Annual Report following commencement of construction.

Q. ENERGY

All equipment used on the Facility site shall be designed to efficiently use energy.

R. VEGETATION and WILDLIFE

1. The Developer shall construct a "fendering system" for manatee protection on the dock serving the Facility pursuant to rules of the Florida Fish and Wildlife Conservation Commission ("FFWCC"). Permanent manatee information and/or awareness sign(s) shall be installed and maintained to increase boater awareness of the presence of manatees, and of the need to minimize the threat of boats to these animals. The signs shall be installed prior to the Facility opening and beginning operations, should be replaced in the event the signs fade or become damaged, and shall be maintained for the life of the facility. The number, type, and procedure for installation should be in accordance with "Permanent Manatee Signs," published by the Bureau of Protected Species Management.
2. In the event that any additional state or federally listed species or colonies of species are discovered using the project site for breeding, the Developer shall immediately notify the FFWCC and implement the recommended measures for species protection.
3. In the event that any in-water development is proposed, the Developer shall coordinate with the FFWCC to ensure that standard manatee construction conditions are followed for all in-water construction. Additionally, any in-water construction shall occur only during the times of year recommended by the FFWCC.

S. OPERATIONS

1. The Developer shall not unload, store, or manufacture at the Facility any sulfur products commonly known as vatted sulfur, crushed bulk sulfur or slated sulfur.
2. The Developer shall not dispose of any reclaimed, contaminated or waste sulfur at the Facility.
3. The Developer shall follow all applicable provisions of the Hillsborough County Fire Code and all recommendations of the Hillsborough County Fire Department as may be necessary for fire prevention and control at the Facility, and shall further provide adequate access for firefighting equipment to any berthed ships containing sulfur.
4. The Developer shall dedicate or cause the dedication of 2 acres of developable land to Hillsborough County, acceptable to the Hillsborough County Fire Department, for a HAZMAT (hazardous materials) fire facility within the boundaries of the Big Bend Terminal DRI (#23/47), or purchase 2 acres off-site within 2 miles of the DRI boundary. The conveyance of said 2 acres to Hillsborough County shall occur no later than March 16, 2009. Alternatively, at the County's election, the Developer will donate cash in an amount equal to the appraised value of the 2.5 acre Adamsville Fire Station located on Powell Road. The appraisal shall be performed at the Developer's sole cost and expense by an appraiser selected by the County. The conveyance of said two (2) acres or cash payment to Hillsborough County shall occur no later than March 16, 2009.
5. Prior to the operation of the facility, the Developer shall provide the County with evidence of an insurance policy with limits of \$1 million for any on-site environmental pollution and limits of \$10 million to cover any off-site liability or third party damage or claim including but not limited to the following situations: the spill, discharge, dispersal, seepage, migration, release or escape of pollutants caused by fire,

explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, or flood. Hillsborough County shall be named as an additional insured on the policy. The policy shall be annually renewed. A draft policy shall be provided to the County for review and approval at least 90 days prior to the Facility becoming operational.

Alternatively, if the insurance coverage listed above is no longer available, the Developer shall furnish the County with evidence of financial responsibility in the above amounts in sufficient detail satisfactory to the County's Division of Insurance and Claims and the County Attorney's Office.

IV. GENERAL PROVISIONS

- A. This Resolution shall constitute the Amended and Re-stated Development Order of Hillsborough County for DRI #245 for the Big Bend Transfer Co., LLC, Sulfur Handling Facility.
- B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of this Development Order.
- C. This Development Order is only applicable to the Developer's leased/licensed area, as described in Exhibit "B."
- D. All provisions or commitments made by the Developer within the ADA shall be considered conditions of this Development Order, unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.
- E. The definitions contained in Chapter 380, F.S., shall govern and apply to this Development Order.

- F. This Development Order shall be binding upon the Developer, its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on the Developer by this Development Order. It is understood that any inference herein to any governmental agency shall be construed to include any future instrumentality that may be created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.
- G. Physical development of the Facility shall begin no later than March 16, 2009, provided that the Developer has received all necessary, final and nonappealable permits to do so. In the event that the Developer has not timely received all necessary, final and nonappealable permits to commence construction of the Facility within the timeframe specified above for any reason beyond the Developer's control, then the development of the project shall commence within sixty (60) days after receipt of all necessary, final and nonappealable permits to do so.
- H. The project shall be developed as a single phase with a buildout of December 21, 2025, or whenever all proposed development is completed, whichever occurs first.
- I. This Development Order shall remain in effect for a period up to and including December 21, 2025, or at project buildout, whichever occurs first. Any development activity for which plans have been submitted to the County for its review and approval prior to the expiration date of this Development Order may be completed, if approved. This Development Order may be extended by the BOCC consistent with the requirements of Subsection 380.06(19), F.S. It is recognized that operation of the Facility may continue indefinitely after project buildout and expiration of the Development Order. However, no new development may occur after the expiration of the Development Order. Any new development proposed after the expiration of the Development Order shall require a substantial deviation determination.
- J. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to

review development of regional impact applications as well as all governmental agencies and departments set forth under applicable laws and rules governing developments of regional impact.

- K. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.
- L. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County LDC.
- M. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable rules, regulations and ordinances in effect at the time of the review.
- N. Except as otherwise provided herein, the previously approved Development Order for DRI #23/47 and amendments thereto for the Big Bend Terminal DRI shall remain unchanged.

- O. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2025, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this 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.
- P. The Developer shall file an annual report in accordance with the requirements of Section 380.06 (18), F.S., on Form RPM-BSP-ANNUAL REPORT-1. The annual report shall contain all information required by that form and Subsection 91-2.025(7), F.A.C. The annual report shall be due on the anniversary of the effective date of this Development Order for each following year until completion of all construction as proposed in the ADA and all terms and conditions of this Development Order are satisfied. The annual report shall be submitted to the County Administrator, and all other entities as specified in Section 380.06(18), F.S. The County Administrator shall, after appropriate review, submit the annual report for review by the BOCC. The BOCC shall review the report for compliance with the terms and conditions of this Development Order and may issue further orders and conditions to insure compliance with the terms and conditions of the Development Order. The Developer shall be notified of any BOCC hearing wherein such report is to be reviewed. The receipt and review by the BOCC of the Annual Report shall not be considered a substitute or waiver of any terms or conditions of the Development Order.
- Q. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if the Developer and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.
- R. In connection with all regulatory permits required in the future for the Facility, the Developer shall be required to comply with all laws, rules and regulations in effect at the time the Developer submits complete and sufficient permit applications(s). However, except as

expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and the Developer shall retain its rights under Section 163.3167(8), F.S.

- S. The Developer shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.
- T. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.
- U. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex-Officio Clerk to the BOCC by certified mail to DCA, TBRPC, and the Developer.
- V. The Developer has certified that full and complete copies of the NOPC have been delivered to all persons required by law pursuant to the "Developer's Affidavit," attached hereto and incorporated herein as Exhibit "D."
- W. Any headings contained in this Development Order are for informational purposes only and shall not be construed as limiting or defining any term or condition contained in this Development Order.
- X. All actions tied to the effective date of this Development Order shall be tolled during any period this Development Order may be on appeal pursuant to Section 380.07, F.S., subject to any other judicial or administrative challenge, and during the pendency of administrative or judicial proceedings related to any permits necessary or required for the Facility.

STATE OF FLORIDA COUNTY OF
HILLSBOROUGH

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the BOCC of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of May 11, 2004, as the same appears of record in Minute Book 336 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 4th day of June, 2004.

RICHARD AKE, CLERK



By: Mildred K. Dehn

Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: [Signature]

Approved as to form and legal sufficiency

EXHIBIT A

BIG BEND TRANSFER CO., LLC,

LEGAL DESCRIPTION

A parcel of land lying in fractional Section 9 and Westerly thereof and in Section 10, Township 31 South, Range 19 East, Hillsborough County, Florida, described as follows: Beginning at the Northeast corner of Section 9, Township 31 South, Range 19 East, Hillsborough County, Florida, run thence South 89° 48' 37" East along the North line of Section 10 a distance of 1074.85 feet to a point; run thence South 00° 53' 49.5" West along the Westerly boundary of that certain public road right-of-way and a Northerly extension thereof as established by that certain Right-of-way Deed recorded April 12, 1971 in Official Record Book 2296 on page 629, a distance of 1,121.34 feet; run thence North 89° 48' 37" West a distance of 5033.29 feet to a point on the Hillsborough County Bulkhead line as established by the Board of County Commissioners of Hillsborough County, Florida on March 23, 1960, by resolution as recorded in Minute Book 32 of said commission and as shown by that certain map recorded in Plat Book 36 on page 91; run thence North 00° 49' 03" East along said Bulkhead Line a distance of 1,121.32 feet to a point on the Westerly extensions of the North line of said Section 9; run thence South 89° 48' 37" East along the North line of said Section 9 and the Westerly extension thereof a distance of 3960.00 feet to the point of beginning.

A parcel of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said section 10, run thence S. 00 degrees 47' 48" W., 250.00 ft. along the East line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W., 247.55 ft. to the Point of beginning; run thence N. 00 degrees 53' 49.5" E., 234.40 ft. to a point established at the Mean High Water Line; continue along average Mean high Water Line:

S 89° 37' 37" W – 955.39 Feet
S 86° 45' 53" W – 502.23 Feet
S 65° 57' 43" W – 328.98 Feet
S 89° 41' 12" W – 1138.87 Feet
S 65° 04' 30" W – 176.71 Feet
N 89° 08' 58" W – 1300.17 Feet
S 79° 53' 06" W – 279.51 Feet
S 46° 20' 34" W – 209.43 Feet
S 09° 15' 57" W – 674.61 Feet

Run thence S 89 degrees 48' 37" E. 4874.40 ft. to a point on the W. side of the road easement; run thence N. 00 degrees 53' 49.5" E., 871.33 ft. to the Point of beginning.

A section of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said Section 10, run thence S. 00 degrees 47' 48" W. a distance of 250.00 ft along the E. line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W. 247.55 ft. to a point on the E. property line and W. right-of-way line of County Road, run thence S. 00 degrees 53' 49.5" West along said right-of-way line a distance of 871.33 ft. to the point of beginning; run thence N. 89 degrees 48' 37" W. a distance of 4874.40 ft. to a point established as the Mean High Water Line; continue along all Mean High Water Line:

S 05° 50' 38" W – 680.15 Feet
S 25° 56' 57" E – 221.47 Feet
S 54° 37' 47" E – 112.56 Feet
S 89° 43' 30.7" E – 3222.44 Feet
S 89° 43' 28.9" E – 409.98 Feet

Run thence S. 89 degrees 53' 19.2" E a distance of 1075.68' to a point; run thence North 00 degrees 59' 17" East a distance of 652.41 ft. run North 01 degrees, 05' 06.5", a distance of 292.09 feet to the point of beginning.

210.82 acres, MOL

EXHIBIT B

BIG BEND TRANSFER CO., LLC
LEASE/LICENSE AREA
(10/13/00)

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance 261.76 feet to a witness corner landward of a ships docking facility; thence continue S.00°49'26"W. and landward a distance of 273.19 feet for a POINT OF BEGINNING; thence S.89°48'37"E. a distance of 192.63 feet; thence S.00°45'29"W. a distance of 445.88 feet; thence N.89°46'20"W. a distance of 300.00 feet; thence N.44°47'10"W. a distance of 60.00 feet; thence S.89°40'06"W. a distance of 951.66 feet; thence N.04°10'00"E. a distance of 33.31 feet; thence N.06°07'34"E. a distance of 129.49 feet; thence N.10°26'31"E. a distance of 112.98 feet; thence N.12°23'07"E. a distance of 75.13 feet; thence N.20°52'51"E. a distance of 50.88 feet; thence N.54°57'00"E. a distance of 30.59 feet; thence S.89°48'37"E. a distance of 1011.19 feet to the POINT OF BEGINNING. Said tract contains 12.14 acres more or less.

And

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance of 257.51 feet for a point of beginning; thence continue S.00°49'26"W. a distance of 277.44 feet; thence N.89°48'37"W. a distance of 1011.19 feet; thence N.00°00'00"W. 61.38 feet; thence N.51°48'43"E. a distance of 287.65 feet; thence N.28°22'55"E. a distance of 42.81 feet; thence S.89°49'34"E. a distance of 767.86 feet to the POINT OF BEGINNING. Said tract contains 5.79 acres more or less.

Total Lease/License area contains 17.93 acres more or less.

NOTE: The bearings used in this description are based upon deed in O.R. 5169 PG 169 and monuments recovered from survey by Watson & Co. dated December 9, 1972.

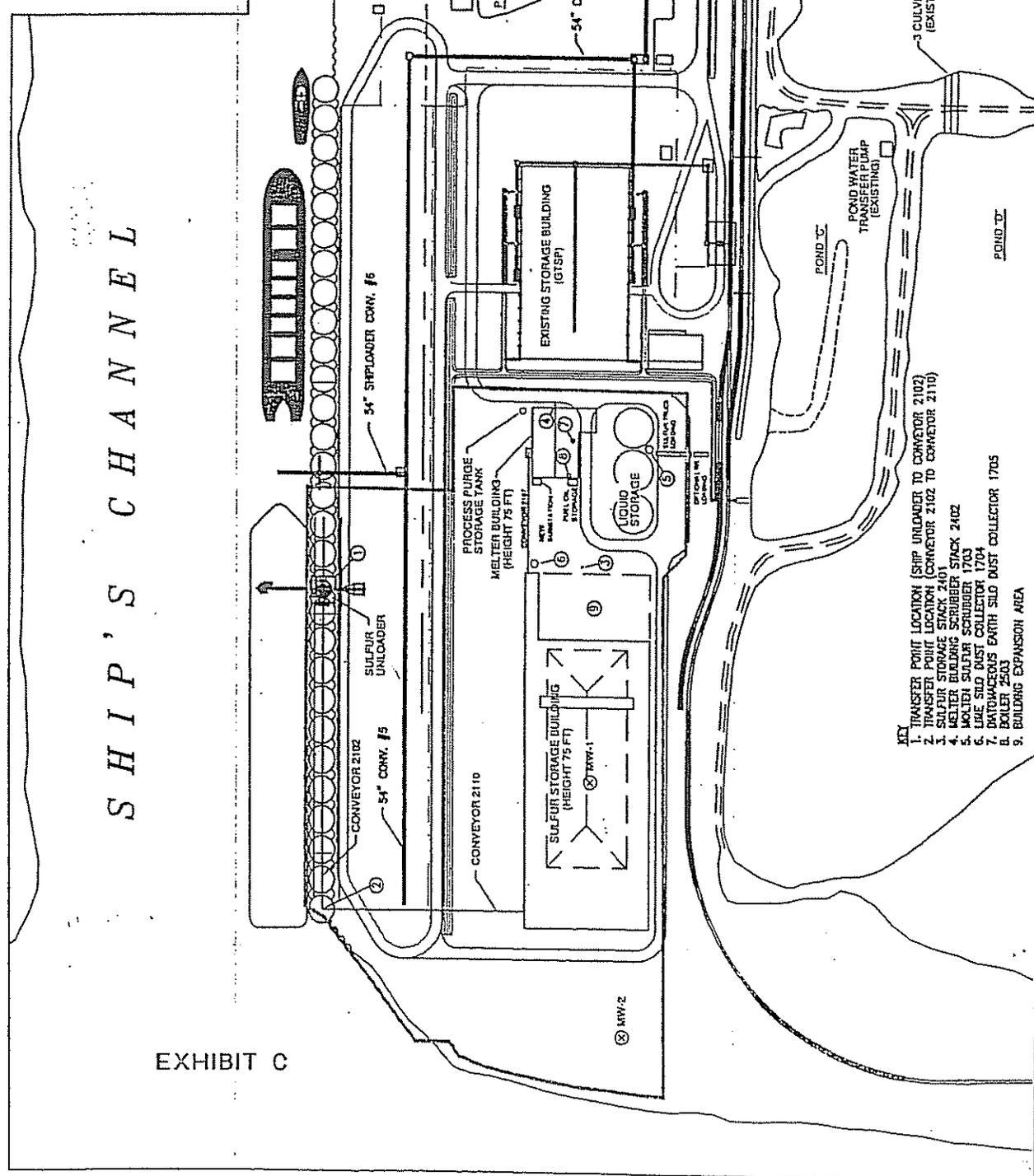
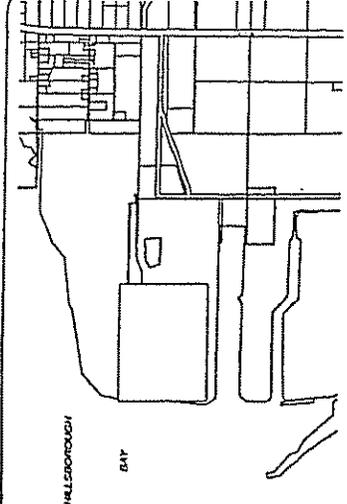


EXHIBIT C

- LEGEND**
- EXISTING DEVELOPMENT
 - NEW DEVELOPMENT
 - EXISTING DIRT ROAD
 - EXISTING ROAD
 - NEW ROAD
 - EXISTING RAILROAD
 - GROUNDWATER MONITORING WELL SITE
 - LEASE/LICENSE AREA

Source:
KEMWorks Technology, Inc.

NO.	DATE	DESCRIPTION
1	12/15/00	PRELIMINARY
2	01/10/01	REVISED
3	02/20/01	REVISED
4	03/15/01	REVISED
5	04/10/01	REVISED
6	05/05/01	REVISED
7	06/01/01	REVISED
8	07/01/01	REVISED
9	08/01/01	REVISED
10	09/01/01	REVISED
11	10/01/01	REVISED
12	11/01/01	REVISED

Scale: 1" = 200'

0' 100' 200'

MAP H

MASTER PLAN
BIG BEND TRANSFER CO., LLC
SULFUR HANDLING FACILITY

ENGINEER
ENGELHARDT, HAMMER & ASSOCIATES, S.C.
11000 FARMHOUSE DRIVE
5444 Bay Center Drive, Suite 123, Tampa, FL 33607
Telephone: 813-932-3655, Fax: 813-764-2387

- KEY**
1. TRANSFER POINT LOCATION (SHIP UNLOADER TO CONVEYOR 2102)
 2. TRANSFER POINT LOCATION (CONVEYOR 2102 TO CONVEYOR 2110)
 3. SULFUR STORAGE STACK 2401
 4. MELTER BUILDING SCRUBBER STACK 2402
 5. MOLTEN SULFUR SCRUBBER 1703
 6. LINE SILD DUST COLLECTOR 1704
 7. DRYING/AGGREGOUS EARTH SILD DUST COLLECTOR 1705
 8. BOILER 2503
 9. BUILDING EXPANSION AREA

EXHIBIT D

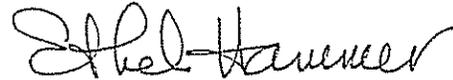
DEVELOPER'S AFFIDAVIT

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared Ethel Hammer to me well known, who being first duly sworn, says upon oath as follows:

1. She is a consultant for Big Bend Transfer Co., LLC, which has filed its Application for a Notice of Proposed Change (NOPC) to a Previously Approved Development of Regional Impact ("Application").
2. The aforementioned Application was filed with Hillsborough County, the State Department of Community Affairs and the Tampa Bay Regional Planning Council as required by law.


Ethel Hammer

Sworn to and subscribed before me this 29 day of April, 2004 by Ethel Hammer who is personally known to me.


Notary Public

Vivian B. Mathews
(Print, Type or Stamp)

PLANNING & GROWTH
MANAGEMENT DEPARTMENT

My Commission Expires: 10-31-06

RECEIVED
APR 30 2004
PLANNING & GROWTH
MANAGEMENT DEPARTMENT

VIVIAN B. MATHEWS
Notary Public, State of Florida
My comm. exp. Oct. 31, 2006
Comm. No. DD 155270

Richard Ake
Clerk of the Circuit Court
Hillsborough County, Florida



P.O. Box 1110
Tampa, Florida 33601
Telephone (813) 276-8100

April 9, 2002

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
9455 KOGER BOULEVARD SUITE 219
ST PETERSBURG FL 33702

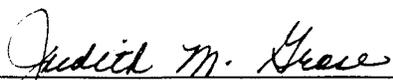
Re: Resolution No. R02-061 - Amending the Development Order for
Big Bend Transfer Co., LLC, Sulfur Handling Facility (DRI
#245)

Dear Mr. Meyer:

Attached is a certified original of referenced resolution, which
was adopted by the Hillsborough County Board of County
Commissioners on March 26, 2002.

We are providing this original for your files.

Sincerely,



Judith M. Grose,
Manager, BOCC Records

md

Attachment

Certified Mail 7000 0600 0029 5053 8995

cc: Board files (orig.)

Charles Gauthier, Florida Department of Community Affair
Jim Shimberg, Jr., Esq., Holland & Knight
Susan Fernandez, Senior Assistant County Attorney
John Healy, Senior Planner, Planning & Growth Management
Beth Novak, County Attorney's Office
Jim Glaros, Assistant Chief Deputy, Valuation, Property
Appraiser's Office

AMENDED DEVELOPMENT ORDER
FOR DRI NO. 245 (FORMERLY DRI NO. 23/47)

Resolution No. R02-061

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ISSUING AN AMENDED DEVELOPMENT ORDER OF APPROVAL WITH CONDITIONS FOR AN APPLICATION FOR DEVELOPMENT APPROVAL OF A DEVELOPMENT OF REGIONAL IMPACT, KNOWN AS THE BIG BEND TRANSFER CO., LLC, SULFUR HANDLING FACILITY; SETTING FORTH FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL PURSUANT TO CHAPTER 380, FLORIDA STATUTES; AND ESTABLISHING AN EFFECTIVE DATE.

Upon motion of Commissioner Hart, seconded by Commissioner Platt, the following Resolution was adopted by a vote of 5 to 2 on this 26th day of March, 2002.

WHEREAS, on January 9, 1974, Agrico Chemical Company (now known as IMC Phosphates Company), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners (the "BOCC") pursuant to the provisions of Section 380.06, Florida Statutes ("F.S."), as amended; and

WHEREAS, said application proposed construction of a phosphate terminal facility on approximately 210.82 acres, as described in Exhibit "A" attached hereto and incorporated herein by reference, located in unincorporated central Hillsborough County; and

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact and amendments; and

WHEREAS, on March 27, 1974, the BOCC approved petition No. 74-5 requesting a Development Order for the Big Bend Terminal Facility Development of Regional Impact (“DRI”) No. 23 pursuant to the provisions of Section 380.06, F.S.; and

WHEREAS, on October 9, 1974, July 16, 1975 (designated DRI No. 47), September 6, 1978, November 26, 1980, September 2, 1981, August 18, 1982, and March 25, 1986, the BOCC approved amendments to the Development Order, pursuant to the provisions of Section 380.06, F.S., (hereinafter the March 27, 1974, Development Order, as amended by the above-referenced amendments, shall be referred to as the “Development Order for DRI #23/47”); and

WHEREAS, the amendment to Development Order for DRI #23/47 approved by the BOCC on March 25, 1986, authorized the construction of a prilled sulfur handling facility, but said facility was never built; and

WHEREAS, the Development Order for DRI No. 23/47 has expired; and

WHEREAS, Big Bend Transfer Co., LLC, (the “Developer”) is a Limited Liability Company whose members will be CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend Inc.; and

WHEREAS, the Developer has leased/licensed an approximately 17.93 acre area of the Big Bend Terminal DRI site as identified by the legal description contained in Exhibit “B”, attached hereto and incorporated herein by reference, from IMC Phosphates Company (formerly known as IMC-Agrico Company), the fee simple owner of the DRI site; and

WHEREAS, it has been determined that the project described herein constitutes a substantial deviation to DRI #23/47 pursuant to Chapter 380, F.S.; and

WHEREAS, on April 20, 2000, the Developer filed an “Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact Subsection 380.06 (19), F.S.” (the “ADA”), for the Big Bend Terminal DRI in accordance with Section 380.06 (19), F.S.; and

WHEREAS, the ADA proposed revisions to the Development Order for DRI #23/47 to allow up to 2 million long tons of solid sulfur to be imported annually to the site by ship or barge, to be melted and provided to sulfur users in Central Florida, as more particularly stated in the ADA; and

WHEREAS, a comprehensive review of the impacts generated by the project has been conducted by all applicable state, regional and local agencies;

WHEREAS, the proposed amendments to the Development Order for DRI #23/47 are only applicable to the approximately 17.93 acre area leased/licensed by the Developer and described in Exhibit “B”; and

WHEREAS, the land encompassed within the ADA lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the public notice requirements of Section 380.06, F.S., and the Hillsborough County Land Development Code (the “LDC”), as amended, have been satisfied; and

WHEREAS, on October 23, 2000, the Zoning Hearing Master appointed pursuant to the LDC conducted a duly-noticed public hearing on the ADA, at which the reports and recommendations of the Tampa Bay Regional Planning Council (“TBRPC”), the Hillsborough County Planning and Growth Management Department (“PGMD”), the Hillsborough County-City Planning Commission (the “Planning Commission”), and other testimony, documents and evidence were received and considered; and

WHEREAS, on November 14, 2000, the Zoning Hearing Master filed a report and recommendation of approval with the BOCC; and

WHEREAS, on December 12, 2000, January 9, 2001, and January 18, 2001 the BOCC held a duly-noticed public hearing on the ADA and considered testimony, documents and evidence within the record made before the BOCC; and

WHEREAS, on January 18, 2001, the BOCC by a vote of 5-2 voted to approve the project with conditions; and

WHEREAS, the approval was challenged in Circuit Court by the citizen’s group SAVE OUR BAYS, AIR & CANALS, Inc.(“SOBAC”); and

WHEREAS, on November 1, 2001, the Circuit Court granted the writ requested by SOBAC and remanded the matter back to the BOCC finding that the Developer should have rezoned the subject property to a Planned Development zoning district; and

WHEREAS, on November 29, 2001, IMC Phosphates Company, the fee simple owner of the property on which the proposed sulfur handling facility would be constructed, submitted an application to rezone the entire 210.82 acres encompassed by DRI 23/47 from a Manufacturing district to a Planned Development district; and

WHEREAS, on February 18, 2002, the Zoning Hearing Master conducted a duly-noticed public hearing on the rezoning application, at which the reports and recommendations of PGMD and the Planning Commission, and other testimony, documents and evidence were received and considered; and

WHEREAS, on March 11, 2002, the Zoning Hearing Master filed a report and recommendation of approval with the BOCC of the rezoning of the subject property to a Planned Development district; and

WHEREAS, on March 26, 2002, the BOCC held a duly-noticed public hearing on the rezoning application and the ADA; and

WHEREAS, the BOCC has received and considered the reports and recommendations of the Zoning Hearing Master, TBRPC, PGMD, the Planning Commission, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING ASSEMBLED THIS 26th DAY OF MARCH, 2002, THAT THE APPLICATION FOR DEVELOPMENT APPROVAL FOR THE SULFUR HANDLING FACILITY SUBMITTED BY THE DEVELOPER, IS HEREBY APPROVED WITH CONDITIONS, SAID APPROVAL BEING BASED UPON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

I. FINDINGS OF FACT

- A. The Developer is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend, Inc.

- B. The Developer has leased/licensed a certain area of the Big Bend Terminal DRI site, as identified by the legal description contained in Exhibit “B”, from IMC Phosphates Company, the fee simple owner of the DRI site.
- C. The authorized agent for IMC Big Bend, Inc., is Mr. Herman Wittje, which is the Managing Member of the Developer, Big Bend Transfer Co., LLC.
- D. The Developer submitted an ADA for a substantial deviation to an existing DRI to Hillsborough County, which requested amendments to the Development Order, as more particularly stated in the ADA, which is incorporated into this Development Order by reference.
- E. The subject of the ADA is the development of a Sulfur Handling Facility (hereinafter the “Facility”). The Facility will be located on the area of the Big Bend Terminal leased/licensed by the Developer, as described in Exhibit “B”.
- F. The land subject to this Development Order is wholly within the Coastal High Hazard Area (CHHA) and the Urban Service Area.
- G. The Facility is consistent with Policy 6.7 of the Coastal Management Element of the Future of Hillsborough Comprehensive Plan.
- H. For purposes of DRI review, the Facility is an industrial land use pursuant to Section 380.0651, F.S., and Chapter 28-24, Florida Administrative Code (“F.A.C.”).
- I. The Facility is not within an area of critical state concern as designated pursuant to Section 380.05, F.S.

- J. As determined by the TBRPC in its preapplication review of the ADA, the Facility will not increase the burden on the existing public facilities of the region.
- K. Subject to the conditions of this Development Order, the Facility will not adversely affect the state and regional resources identified in the State Comprehensive Plan, or the TBRPC Strategic Regional Policy Plan (entitled the “Future of the Region: A Strategic Regional Policy Plan”). Further, the Facility will not adversely impact adjacent jurisdictions or the availability of affordable housing.
- L. TBRPC, at the conclusion of its October 9, 2000, public meeting on its staff’s review and recommendation of the ADA, voted to recommend approval of the Facility, with conditions, to the BOCC.
- M. The information and data contained within the ADA are sufficient for the BOCC to review the Facility as required by Section 380.06, F.S.
- N. On December 12, 2000, January 9, 2001, January 18, 2001, and March 26, 2002, the BOCC held the required public hearings on the ADA, heard all testimony offered and received evidence and documents pertaining to the Facility, including but not limited to the reports and recommendations of TBRPC, PGMD, the Planning Commission, and the Zoning Hearing Master.

II. CONCLUSIONS OF LAW

- A. After review by the BOCC of the various written and oral reports, memoranda and letters associated with the review of the Facility, the BOCC concludes that all statutory procedures have been adhered to and the impacts of the Facility are adequately addressed pursuant to the requirements of Section 380.06, F.S., within the terms and conditions of this Development Order.

- B. In considering whether the Facility should be approved subject to various conditions, restrictions and limitations contained in the Development Order, the BOCC has considered the criteria stated in Chapter 380, F.S., and including those in subsection 380.06(14), F.S., and Chapter 9J-2, F.A.C.
- C. The Facility, as described in the ADA, shall be subject to the terms of this Development Order and shall not be subject to future DRI review pursuant to Section 380.06, F.S., unless the BOCC determines that any proposed changes to the Facility constitute a substantial deviation pursuant to Section 380.06(19), F.S., and the conditions contained herein.
- D. Based on the compliance with the terms and conditions of this Development Order, the ADA, the reports, recommendations and testimony heard and considered by the Zoning Hearing Master, together with the reports, recommendations and testimony heard and considered by the BOCC, it is concluded that:
1. The development approved hereby is consistent with the State Comprehensive Plan as a whole;
 2. The development does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area;
 3. The development is consistent with the TBRPC Future of the Region: A Strategic Regional Policy Plan;
 4. The development is consistent with the report and recommendations of TBRPC submitted pursuant to Subsection 380.06(12), Florida Statutes; and

5. The development is consistent with the Comprehensive Plan of Hillsborough County and with the LDC.
- E. Based on the Hillsborough County Comprehensive Plan, Future Land Use Element and Map, the Facility is situated on land designated as a Heavy Industrial land use classification and is consistent therewith.
- F. As required by the Hillsborough County Comprehensive Plan and the LDC, the Facility is situated on land zoned Planned Development (PD) and is consistent therewith.

III. SPECIFIC CONDITIONS

- A. A revised Map "H", dated October 10, 2000, is adopted as part of this Development Order, and is attached hereto as Exhibit "C" and incorporated herein by reference.
- B. The following development is hereby authorized:
1. One (1) ship/barge unloader.
 2. A conveyor system.
 3. One (1) solid sulfur storage building totaling 154,000 square feet with a capacity of 78,000 tons.
 4. A sulfur melting building totaling 17,100 square feet and three (3) solid sulfur melters.
 5. One (1) boiler.
 6. Three (3) liquid sulfur storage tanks with a capacity of 10,000 tons each.
 7. One (1) process/purge water storage tank.
 8. One (1) fuel oil storage tank with a capacity of 12,000 gallons.
 9. Four (4) liquid sulfur truck loading stations.
 10. One (1) caustic soda storage tank with a capacity of 7,500 gallons.
 11. One (1) liquid sulfur rail car loading station.

12. Miscellaneous support facilities which are ancillary to the Facility's operation (e.g., pipelines, offices).

C. No in-water construction or development is authorized by this Development Order. Any proposal by the Developer to increase the depth of the access channel or dockside berths, or to increase the size of the draft vessels serving the Facility, shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

D. All new development shall comply with all applicable provisions of the Land Development Code.

E. All development shall be in accordance with Chapters 62-296.411, 62-212.600, and 62-4, F.A.C.

F. All development shall be consistent with Hillsborough County Environmental Protection Commission (the "EPC") Permit No. 0571244-001-AC.

G. No more than 2 million (2,000,000) long tons of solid sulfur per year may be brought into the Facility. In each annual report the Developer shall identify the total amount of solid sulfur brought into the facility each reporting year.

H. SOILS

The Developer shall use Best Management Practices and the erosion control techniques listed on page 15-1 of the ADA during site preparation and construction.

I. FLOODPLAINS

The floors of all structures located within the 100-year floodplain shall be constructed above the 100-year flood elevation as determined by the Federal Emergency Management Agency ("FEMA").

J. WATER SUPPLY

1. The Developer shall use non-potable “reclaimed” water within 30 days of being advised by Hillsborough County that it is available, and shall use it for all suitable uses to the maximum extent possible. The Big Bend Sulfur Handling Facility (DRI #245) and development on the Big Bend Terminal DRI site (DRI #23/47) shall not use more than the 62,000 gallons per day of potable water used by the Big Bend Terminal DRI prior to approval of the Big Bend Sulfur Handling Facility. In the event that reclaimed water is not available to service additional water needs for the Sulfur Handling Facility operations, the Developer shall use non-potable water from other sources, such as municipalities or BBTC member facilities, on an interim basis, until such time that reclaimed water becomes available.
2. The Developer shall utilize high-efficiency (low volume) plumbing fixtures and other water conserving devices.

K. WASTEWATER

1. New on-site sewage disposal systems (septic tanks) shall not be permitted. The Developer shall connect to the County’s sanitary sewer system. The Developer may not seek hardship exceptions to this requirement as provide for in the Future of Hillsborough Comprehensive Plan and the LDC.
2. No industrial wastewater shall be disposed of on-site. “Process” water (also termed “scrubber” or “purge” water) shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC.

L. STORMWATER MANAGEMENT AND WATER QUALITY

1. The Facility shall utilize the existing stormwater facilities within DRI #23/47. The current standard of zero discharge of stormwater shall be maintained throughout the life of the Facility, in accordance with any permits issued by the Florida Department of Environmental Protection (“FDEP”).
2. The Developer will operate and maintain the drainage system within the lease/licensed area as provided in the ADA after completion of the development.
3. The Developer will initiate water quality monitoring of the onsite stormwater ponds in accordance with FDEP permits. The parameters that shall be sampled for in the stormwater ponds shall include, but not be limited to, the following: (1) pH, (2) Temperature, (3) Dissolved Oxygen, (4) TRPH – Total Recoverable Petroleum Hydrocarbons, (5) Total Suspended Solids and (6) Total Nitrogen. Samples shall be taken four times per year, twice during the wet season and twice during the dry season. The results of the water quality monitoring shall be included in the project’s Annual Report.
4. The Developer shall monitor groundwater conditions from one (1) location. The parameters to be monitored shall include Nitrate-N, Total Kjeldahl Nitrogen, Total Nitrogen, Total Phosphorous, and Total Dissolved Solids. The Developer shall report the findings of the monitoring program in the Annual Report.

M. SOLID WASTE/HAZARDOUS MATERIALS

1. The Developer will comply with all Superfund Amendment and Reauthorization Act (SARA), Title III requirements on the handling, storage and reporting of hazardous materials.

2. A Spill Prevention Control and Countermeasure Plan (the "Spill Plan") pursuant to Chapter 40, Code of Federal Regulations, Part 112, shall be developed prior to the operation of the Facility. Any petroleum spills will be handled in accordance with the Spill Plan. The Developer shall submit the Spill Plan for review and approval to the Hillsborough County Emergency Management Department prior to operation of the Facility. The Spill Plan shall be made available for review by the Occupational Safety and Health Administration.
3. No more than 7,500 gallons of Caustic Soda shall be stored at the Facility at any one time.
4. Secondary containment devices shall be constructed surrounding the fuel and Caustic Soda tanks.
5. All waste filter cake shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC, for disposal.
6. No hazardous waste shall be generated or stored at the Facility.

N. TRANSPORTATION

1. Under normal traffic conditions no trucks carrying sulfur from the Facility shall use Madison Avenue/Progress Boulevard. The Developer shall notify all trucking companies using the Facility of this requirement.
2. All trucks serving the Facility shall utilize truck routes designated by the County.
3. The cargo beds of vehicles transporting the cake filter wastes shall be covered with tarpaulins in order to prevent spillage.

O. AIR

1. The Developer shall use all equipment and/or techniques, or their equivalents, for air quality control as discussed in the ADA, including, but not limited to, vapor recovery and scrubbing, dust suppression spray, and dust collection throughout the life of the Facility.
2. The boiler utilized by the Facility shall burn very low sulfur (0.05%) #2 fuel oil.
3. The Facility shall use natural gas to operate the boiler for the solid sulfur melters if and when a natural gas pipeline is available to the west of U.S. 41 in the vicinity of Pembroke Avenue.

P. HURRICANE PREPAREDNESS

The Developer shall prepare a Hurricane Preparedness Plan and submit it to PGMD, TBRPC and the Florida Department of Community Affairs (“DCA”) for review prior to operation of the Facility. At a minimum, such Hurricane Preparedness Plan shall be included in the first Annual Report following commencement of construction.

Q. ENERGY

All equipment used on the Facility site shall be designed to efficiently use energy.

R. VEGETATION and WILDLIFE

1. The Developer shall construct a “fendering system” for manatee protection on the dock serving the Facility pursuant to rules of the Florida Fish and Wildlife Conservation Commission (“FFWCC”). Permanent manatee information and/or awareness sign(s) shall be installed and maintained to increase boater awareness

of the presence of manatees, and of the need to minimize the threat of boats to these animals. The signs shall be installed prior to the Facility opening and beginning operations, should be replaced in the event the signs fade or become damaged, and shall be maintained for the life of the facility. The number, type, and procedure for installation should be in accordance with "Permanent Manatee Signs", published by the Bureau of Protected Species Management.

2. In the event that any additional state or federally listed species or colonies of species are discovered using the project site for breeding, the Developer shall immediately notify the FFWCC and implement the recommended measures for species protection.
3. In the event that any in-water development is proposed, the Developer shall coordinate with the FFWCC to ensure that standard manatee construction conditions are followed for all in-water construction. Additionally, any in-water construction shall occur only during the times of year recommended by the FFWCC.

S. OPERATIONS

1. The Developer shall not unload, store, or manufacture at the Facility any sulfur products commonly known as vatted sulfur, crushed bulk sulfur or slated sulfur.
2. The Developer shall not dispose of any reclaimed, contaminated or waste sulfur at the Facility.

3. The Developer shall follow all applicable provisions of the Hillsborough County Fire Code and all recommendations of the Hillsborough County Fire Department as may be necessary for fire prevention and control at the Facility, and shall further provide adequate access for firefighting equipment to any berthed ships containing sulfur.
4. The Developer shall dedicate or cause the dedication of 2 acres of developable land to Hillsborough County, acceptable to the Hillsborough County Fire Department, for a HAZMAT (hazardous materials) fire facility within the boundaries of the Big Bend Terminal DRI (#23/47), or purchase 2 acres off-site within 2 miles of the DRI boundary. The conveyance of said 2 acres to Hillsborough County shall occur within 2 years from the effective date of this Development Order. Alternatively, at the County's election, the Developer will donate cash in an amount equal to the appraised value of the 2.5-acre Adamsville Fire Station Site located on Powell Road. The appraisal shall be performed at the Developer's sole cost and expense by an appraiser selected by the County. The conveyance of said 2 acres or cash payment to Hillsborough County shall occur within 2 years from the effective date of this Development Order.
5. Prior to the operation of the facility, the Developer shall provide the County with evidence of an insurance policy with limits of \$1 million for any on-site environmental pollution and limits of \$10 million to cover any off-site liability or third party damage or claim including but not limited to the following situations: the spill, discharge, dispersal, seepage, migration, release or escape of pollutants caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, or flood. Hillsborough County shall be named as an additional insured on the policy. The policy shall be annually renewed. A draft policy shall be provided to the County for review and approval at least 90 days prior to the Facility becoming operational.

Alternatively, if the insurance coverage listed above is no longer available, the Developer shall furnish the County with evidence of financial responsibility in the above amounts in sufficient detail satisfactory to the County's Division of Insurance and Claims and the County Attorney's Office.

IV. GENERAL PROVISIONS

- A. This Resolution shall constitute the Development Order of Hillsborough County for DRI #245 adopted in response to the ADA for the Big Bend Transfer Co., LLC, Sulfur Handling Facility.
- B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of this Development Order.
- C. This Development Order is only applicable to the Developer's leased/licensed area, as described in Exhibit "B".
- D. All provisions or commitments made by the Developer within the ADA shall be considered conditions of this Development Order unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.
- E. The definitions contained in Chapter 380, F.S., shall govern and apply to this Development Order.
- F. This Development Order shall be binding upon the Developer, its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on the Developer by this Development Order. It is understood that any inference herein to any governmental agency shall be construed to include any future instrumentality that may be

created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.

- G. Physical development of the Facility shall begin within two years of the effective date of this Development Order, provided that the Developer has received all necessary, final and nonappealable permits to do so. In the event that the Developer has not timely received all necessary, final and nonappealable permits to commence construction of the Facility within the timeframe specified above for any reason beyond the Developer's control, then the development of the project shall commence within sixty (60) days after receipt of all necessary, final and nonappealable permits to do so.
- H. The project shall be developed as a single phase with a buildout of December 31, 2020, or whenever all proposed development is completed, whichever occurs first.
- I. This Development Order shall remain in effect for a period up to and including December 31, 2020, or at project buildout, whichever occurs first. Any development activity for which plans have been submitted to the County for its review and approval prior to the expiration date of this Development Order may be completed, if approved. This Development Order may be extended by the BOCC consistent with the requirements of Subsection 380.06(19), F.S. It is recognized that operation of the Facility may continue indefinitely after project buildout and expiration of the Development Order. However, no new development may occur after the expiration of the Development Order. Any new development proposed after the expiration of the Development Order shall require a substantial deviation determination.
- J. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to review development of regional impact applications as well as all

governmental agencies and departments set forth under applicable laws and rules governing developments of regional impact.

- K. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.

- L. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County LDC.

- M. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable rules, regulations and ordinances in effect at the time of the review.

- N. Except as otherwise provided herein, the previously approved Development Order for DRI #23/47 and amendments thereto for the Big Bend Terminal DRI shall remain unchanged.
- O. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2020, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this 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.
- P. The Developer shall file an annual report in accordance with the requirements of Section 380.06 (18), F.S., on Form RPM-BSP-ANNUAL REPORT-1. The annual report shall contain all information required by that form and Subsection 9J-2.025(7), F.A.C. The annual report shall be due on the anniversary of the effective date of this Development Order for each following year until completion of all construction as proposed in the ADA and all terms and conditions of this Development Order are satisfied. The annual report shall be submitted to the County Administrator, and all other entities as specified in Section 380.06(18), F.S. The County Administrator shall, after appropriate review, submit the annual report for review by the BOCC. The BOCC shall review the report for compliance with the terms and conditions of this Development Order and may issue further orders and conditions to insure compliance with the terms and conditions of the Development Order. The Developer shall be notified of any BOCC hearing wherein such report is to be reviewed. The receipt and review by the BOCC of the Annual Report shall not be considered a substitute or waiver of any terms or conditions of the Development Order.
- Q. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if the Developer and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially

impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.

- R. In connection with all regulatory permits required in the future for the Facility, the Developer shall be required to comply with all laws, rules and regulations in effect at the time the Developer submits complete and sufficient permit applications(s). However, except as expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and the Developer shall retain its rights under Section 163.3167(8), F.S.
- S. The Developer shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.
- T. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.
- U. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex Officio Clerk to the BOCC by certified mail to DCA, TBRPC and the Developer.
- V. The Developer has certified that full and complete copies of the ADA have been delivered to all persons required by law pursuant to the "Developer's Affidavit," attached hereto and incorporated herein as Exhibit "D".
- W. Any headings contained in this Development Order are for informational purposes only and shall not be construed as limiting or defining any term or condition contained in this Development Order.

- X. All actions tied to the effective date of this Development Order shall be tolled during any period this Development Order may be on appeal pursuant to Section 380.07, F.S., subject to any other judicial or administrative challenge, and during the pendency of administrative or judicial proceedings related to any permits necessary or required for the Facility.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the BOCC of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of March 26, 2002, as the same appears of record in Minute Book 310 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 9th day of April, 2002.

RICHARD AKE, CLERK



By: Mildred K. Dyer
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: [Signature]
Approved as to form and legal sufficiency

EXHIBIT A

BIG BEND TRANSFER CO., LLC,

LEGAL DESCRIPTION

A parcel of land lying in fractional Section 9 and Westerly thereof and in Section 10, Township 31 South, Range 19 East, Hillsborough County, Florida, described as follows: Beginning at the Northeast corner of Section 9, Township 31 South, Range 19 East, Hillsborough County, Florida, run thence South 89° 48' 37" East along the North line of Section 10 a distance of 1074.85 feet to a point; run thence South 00° 53' 49.5" West along the Westerly boundary of that certain public road right-of-way and a Northerly extension thereof as established by that certain Right-of-way Deed recorded April 12, 1971 in Official Record Book 2296 on page 629, a distance of 1,121.34 feet; run thence North 89° 48' 37" West a distance of 5033.29 feet to a point on the Hillsborough County Bulkhead line as established by the Board of County Commissioners of Hillsborough County, Florida on March 23, 1960, by resolution as recorded in Minute Book 32 of said commission and as shown by that certain map recorded in Plat Book 36 on page 91; run thence North 00° 49' 03" East along said Bulkhead Line a distance of 1,121.32 feet to a point on the Westerly extensions of the North line of said Section 9; run thence South 89° 48' 37" East along the North line of said Section 9 and the Westerly extension thereof a distance of 3960.00 feet to the point of beginning.

A parcel of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said section 10, run thence S. 00 degrees 47' 48" W., 250.00 ft. along the East line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W., 247.55 ft. to the Point of beginning; run thence N. 00 degrees 53' 49.5" E., 234.40 ft. to a point established at the Mean High Water Line; continue along average Mean high Water Line:

S 89° 37' 37" W – 955.39 Feet
S 86° 45' 53" W – 502.23 Feet
S 65° 57' 43" W – 328.98 Feet
S 89° 41' 12" W – 1138.87 Feet
S 65° 04' 30" W – 176.71 Feet
N 89° 08' 58" W – 1300.17 Feet
S 79° 53' 06" W – 279.51 Feet
S 46° 20' 34" W – 209.43 Feet
S 09° 15' 57" W – 674.61 Feet

Run thence S 89 degrees 48' 37" E. 4874.40 ft. to a point on the W. side of the road easement; run thence N. 00 degrees 53' 49.5" E., 871.33 ft. to the Point of beginning.

A section of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said Section 10, run thence S. 00 degrees 47' 48" W. a distance of 250.00 ft along the E. line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W. 247.55 ft. to a point on the E. property line and W. right-of-way line of County Road, run thence S. 00 degrees 53' 49.5" West along said right-of-way line a distance of 871.33 ft. to the point of beginning; run thence N. 89 degrees 48' 37" W. a distance of 4874.40 ft. to a point established as the Mean High Water Line; continue along all Mean High Water Line:

S 05° 50' 38" W – 680.15 Feet
S 25° 56' 57" E – 221.47 Feet
S 54° 37' 47" E – 112.56 Feet
S 89° 43' 30.7" E – 3222.44 Feet
S 89° 43' 28.9" E – 409.98 Feet

Run thence S. 89 degrees 53' 19.2" E a distance of 1075.68' to a point; run thence North 00 degrees 59' 17" East a distance of 652.41 ft. run North 01 degrees, 05' 06.5", a distance of 292.09 feet to the point of beginning.

210.82 acres, MOL

EXHIBIT B

BIG BEND TRANSFER CO., LLC LEASE/LICENSE AREA (10/13/00)

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance 261.76 feet to a witness corner landward of a ships docking facility; thence continue S.00°49'26"W. and landward a distance of 273.19 feet for a POINT OF BEGINNING; thence S.89°48'37"E. a distance of 192.63 feet; thence S.00°45'29"W. a distance of 445.88 feet; thence N.89°46'20"W. a distance of 300.00 feet; thence N.44°47'10"W. a distance of 60.00 feet; thence S.89°40'06"W. a distance of 951.66 feet; thence N.04°10'00"E. a distance of 33.31 feet; thence N.06°07'34"E. a distance of 129.49 feet; thence N.10°26'31"E. a distance of 112.98 feet; thence N.12°23'07"E. a distance of 75.13 feet; thence N.20°52'51"E. a distance of 50.88 feet; thence N.54°57'00"E. a distance of 30.59 feet; thence S.89°48'37"E. a distance of 1011.19 feet to the POINT OF BEGINNING.
Said tract contains 12.14 acres more or less.

And

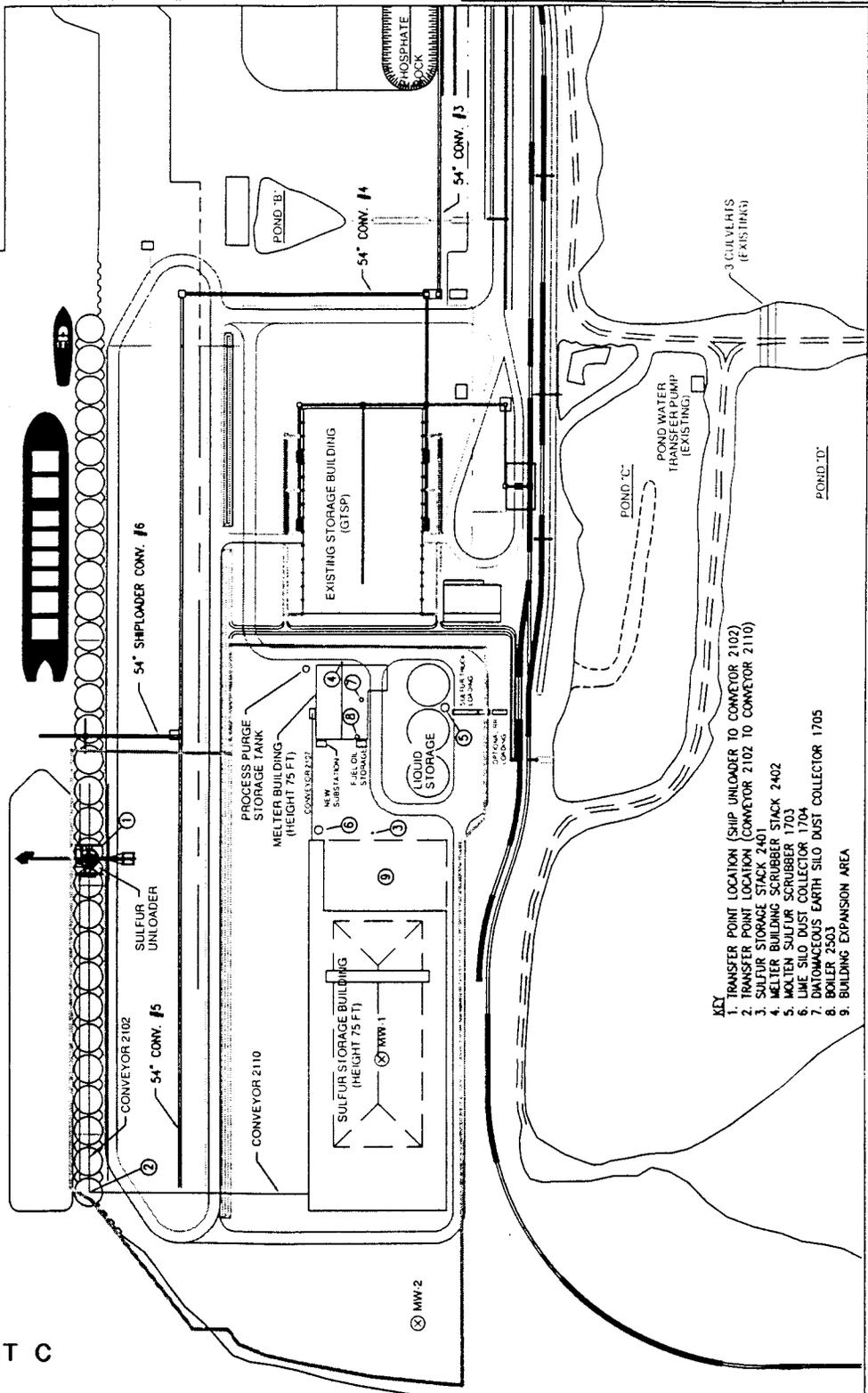
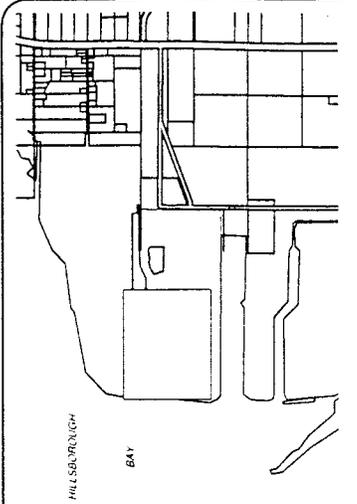
That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance of 257.51 feet for a point of beginning; thence continue S.00°49'26"W. a distance of 277.44 feet; thence N.89°48'37"W. a distance of 1011.19 feet; thence N.00°00'00"W. 61.38 feet; thence N.51°48'43"E. a distance of 287.65 feet; thence N.28°22'55"E. a distance of 42.81 feet; thence S.89°49'34"E. a distance of 767.86 feet to the POINT OF BEGINNING.
Said tract contains 5.79 acres more or less.

Total Lease/License area contains 17.93 acres more or less.

NOTE: The bearings used in this description are based upon deed in O.R. 5169 PG 169 and monuments recovered from survey by Watson & Co. dated December 9, 1972.

SHIP'S CHANNEL

EXHIBIT C



- LEGEND**
- EXISTING DEVELOPMENT
 - NEW DEVELOPMENT
 - EXISTING DIRT ROAD
 - EXISTING ROAD
 - NEW ROAD
 - EXISTING RAILROAD
 - GROUNDWATER MONITORING WELL SITE
 - LEASE LICENSE AREA

Source:
KEMWorks Technology, Inc.



MAP H
MASTER PLAN
BIG BEND TRANSFER CO., LLC
SULFUR HANDLING FACILITY

ENGINEER: JAMBER & ASSOCIATES
Professional Engineering Services
5444 East Center Drive, Suite 122, Tampa, FL 33634
Tel: (813) 287-8855 Fax: (813) 286-2506

- KEY**
1. TRANSFER POINT LOCATION (SHIP UNLOADER TO CONVEYOR 2102)
 2. TRANSFER POINT LOCATION (CONVEYOR 2102 TO CONVEYOR 2110)
 3. SULFUR STORAGE STACK 2401
 4. MELTER BUILDING SCRUBBER 2402
 5. MOLTEN SULFUR SCRUBBER 1703
 6. LIME SILO DUST COLLECTOR 1704
 7. DINITOMACEOUS EARTH SILO DUST COLLECTOR 1705
 8. BOILER 2503
 9. BUILDING EXPANSION AREA

EXHIBIT D

DEVELOPER'S AFFIDAVIT

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared Tim Butts, to me well known, who being first duly sworn, says upon oath as follows:

1. He is a consultant for Big Bend Transfer Co., LLC, which has filed its Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact ("Application").
2. The aforementioned Application was filed with Hillsborough County, the State Department of Community Affairs and the Tampa Bay Regional Planning Council as required by law.


Tim Butts

Sworn to and subscribed before me this 2 day of April, 2002 by Tim Butts who is personally known to me.


Notary Public

Vivian B. Mathews
Notary Public State of Florida
Exp. Oct. 31, 2002
CC 782068

(Print, Type or Stamp)

My Commission Expires: 10-31-02

FROM HOLLAND & KNIGHT TAMPA

(MON) 11: 5' 01 10:54/NO. 4260953276 P 2

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR HILLSBOROUGH COUNTY, FLORIDA
Appellate Division

SAVE OUR BAYS, AIR & CANALS, INC.
Petitioner,

vs.

Case no. 01-1409
Division: X

HILLSBOROUGH COUNTY, FLORIDA, and
BIG BEND TRANSFER CO., LLC.,
Respondent.

Review of a final order of the Board of County Commissioners, Hillsborough County, Florida.

Ralf G. Brookes, Esquire
1217 E. Cape Coral Pkwy # 107
Cape Coral, FL 33904
Attorney for Petitioners

Hillsborough County Attorney's Office
Attention: H. Ray Allen, II, Sr. Asst. Co. Attorney
P.O. Box 1110
Tampa, Florida 33601-1110
Attorney for Respondent Hillsborough County, Board of County Commissioners

Kari J. Brandes, Esquire
Holland & Knight, LLP
P.O. Box 1288
Tampa, FL 33601-1288
Attorney for Respondent Big Bend Transfer Co., LLC.

Opinion filed November 1st, 2001

PER CURIAM

Petitioner, Save our Bays and Canals, Inc., (SOBAC) requests this court to review the administrative proceedings below, wherein Respondent Big Bend was granted by Respondent, the Board of County Commissioners of Hillsborough County (BOCC), a permit for the delivery and

Post-it* Fax Note	7671	Date	5/7	# of pages	4
To	John Meyer	From	TIM BETTS		
Co./Dept.		Co.			
Phone #		Phone #	262-3855		
Fax #	(727) 570-5118	Fax #			

FROM HOLLAND & KNIGHT TAMPA

(MON) 11. 5' 01 10: 'ST. 10:54/NO. 4260953276 P 3

processing of solid sulfur. We have jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(3).

The standard of review in this case is whether procedural due process was afforded petitioner, whether the essential requirements of law were observed, and whether the BOCC's findings are supported by competent substantial evidence. City of Deerfield Beach v. Vaillant, 419 So.2d 624 (Fla. 1982). Based upon our review of the record, it is clear that Petitioner was afforded procedural due process in the proceedings below, and further, that the decision of the BOCC was supported by competent substantial evidence. However, because we find that the BOCC departed from the essential requirements of law, we grant the writ.

On January 18, 2001, the BOCC of Hillsborough County approved an industrial development request for a solid sulfur transport, handling, melting, and storage facility in a coastal high hazard area (CHHA). Petitioner contends that the decision of the BOCC departs from the essential requirements of law because, in violation of the county's own land development code, the BOCC did not require Respondent Big Bend Transfer Co. (Big Bend) to obtain a PD rezoning. Petitioner argues that the code requires rezoning under the facts of this case. The permit requested was for a substantial deviation to the previously approved Development of Regional Impact (DRI). Respondent Big Bend contends that it requested a written zoning interpretation of section 3.04.01 of the county's Land Development Code (LDC) to determine whether Big Bend was required to pursue rezoning, and that County staff issued an opinion that Big Bend did not have to do so because the use was already allowed under the current zoning. We disagree.

Section 3.04.01 of the LDC states:

A. All new buildings, structures, uses and substantial expansions of existing uses within the

FROM HOLLAND & KNIGHT TAMPA

(MON) 11. 5' 01 10 AM. 10:54/NO. 4260953276 P 4

CHHA, other than government owned or leased facilities, shall be approved through a planned unit development rezoning process for the following:

1. Commercial or industrial development on more than five acres of land; and
2. Residential subdivision exceeding ten lots.

(Emphasis supplied).

Respondents argue that courts have determined that great weight should be given to the construction of a rule by an agency that is charged with its enforcement and interpretation. Falk v. Beard, 614 So.2d 1086, 1089 (Fla. 1993). This is true even if that interpretation is not the sole possible interpretation, the most logical interpretation, or even the most desirable interpretation. Golfcrest Nursing Home v. State Agency for Health Care Administration, 662 So.2d 1330, 1333 (Fla. 1st DCA 1995). Courts should not depart from that construction unless it is clearly erroneous. Falk, at 1089. In statutory construction, a literal interpretation need not be given the language used when to do so would lead to an unreasonable conclusion or defeat legislative intent or result in a manifest incongruity. Las Olas Tower Company v. City of Ft. Lauderdale, 742 So.2d 308, 312 (Fla. 4th DCA 1999). Respondents correctly state the law. However, the Court need not defer to an agency's construction or application of a statute if special agency expertise is not required. Dovle v. Department of Business Regulation, 26 Fla. L. Weekly D2183; 2001 WL 1013598 (Fla. 1st DCA 2001). The same is true if the language of the statute is clear and therefore not subject to construction. Id. Here, the ordinance states that all new buildings and/or expanded uses on more than five acres of land must go through PD rezoning. It does not exempt previously permitted uses. The reference in the ordinance to "expanded" uses, such as that contemplated by Big Bend, in the absence of modifying terms such as "nonconforming" or "grandfathered" suggests that an expanded

FROM HOLLAND & KNIGHT TAMPA

(MON) 11. 5' 01 10 AM 10:54/NO. 4260953276 P 5

use is the enlargement of...an already permitted use. For the BOCC to determine that the ordinance does not require rezoning for already permitted uses rewrites the clear language of the ordinance. Such interpretation departs from the essential requirements of law.

Petitioner contends that the rezoning process is subject to heightened notice and due process requirements, a contention which Respondents do not rebut. However, we need not address that issue. Respondents have not shown that a literal construction of the ordinance would lead to an unreasonable conclusion, defeat the legislative intent, or result in a manifest incongruity as set forth in the Las Olas decision. Although the County's interpretation is given great weight by this Court, in this situation we cannot allow it to, in effect, rewrite the ordinance. Therefore, we grant the writ.

It is therefore **ORDERED** that the writ is **GRANTED**.

DONE AND ORDERED this ____ day of November, 2001.

ORIGINAL SIGNED

NOV 01 2001

ROBERT H. BONANNO
CIRCUIT JUDGE

By:

Robert H. Bonanno, Presiding Circuit Judge

Judges Graco and Holder concur.

Richard Ake
Clerk of the Circuit Court
Hillsborough County, Florida

#245



Clerk to Board of
County Commissioners
County Center, 12th Floor
601 E. Kennedy Blvd.
P.O. Box 1110
Tampa, Florida 33601
Telephone 276-8100, ext. 6730

February 14, 2001

JOHN MEYER DRI COORDINATOR
TAMPA BAY REGIONAL PLANNING COUNCIL
9455 KOGER BOULEVARD SUITE 219
ST PETERSBURG FL 33702

Re: Resolution No. R01-007 - Amending the Development Order for
Big Bend Transfer Co., LLC, Sulfur Handling Facility (DRI
#245)

Dear Mr. John Meyer:

Attached is a certified original of referenced resolution, which
was adopted by the Hillsborough County Board of County
Commissioners on January 18, 2001.

We are providing this original for your files.

Sincerely,


Judith M. Grose,
Manager, BOCC Records

md

Attachment

Federal Express AB#805649480385

cc: Board files (orig.)

J. Thomas Beck, Florida Department of Community Affairs
Jim Shimberg, Jr., Esq., Holland and Knight
Susan Fernandez, Senior Assistant County Attorney
John Healy, Senior Planner, Planning & Growth Management
Beth Novak, County Attorney's Office

AMENDED DEVELOPMENT ORDER
FOR DRI NO. 245 (FORMERLY DRI NO. 23/47)

Resolution No. R01-007

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, ISSUING AN AMENDED DEVELOPMENT ORDER OF APPROVAL WITH CONDITIONS FOR AN APPLICATION FOR DEVELOPMENT APPROVAL OF A DEVELOPMENT OF REGIONAL IMPACT, KNOWN AS THE BIG BEND TRANSFER CO., LLC, SULFUR HANDLING FACILITY; SETTING FORTH FINDINGS OF FACT, CONCLUSIONS OF LAW, AND CONDITIONS OF APPROVAL PURSUANT TO CHAPTER 380, FLORIDA STATUTES; AND ESTABLISHING AN EFFECTIVE DATE.

Upon motion of Commissioner Hart, seconded by Commissioner Norman, the following Resolution was adopted by a vote of 5 to 2 on this 18th day of January, 2001.

WHEREAS, on January 9, 1974, Agrico Chemical Company (now known as IMC Phosphates Company), filed an Application for Development Approval of a Development of Regional Impact with the Hillsborough County Board of County Commissioners (the "BOCC") pursuant to the provisions of Section 380.06, Florida Statutes ("F.S."), as amended; and

WHEREAS, said application proposed construction of a phosphate terminal facility on approximately 210.82 acres, as described in Exhibit "A" attached hereto and incorporated herein by reference, located in unincorporated central Hillsborough County; and

WHEREAS, the BOCC, as the governing body of the local government having jurisdiction pursuant to Section 380.06, F.S., as amended, is authorized and empowered to consider Applications for Development Approval for Developments of Regional Impact and amendments; and

WHEREAS, on March 27, 1974, the BOCC approved petition No. 74-5 requesting a Development Order for the Big Bend Terminal Facility Development of Regional Impact (“DRI”) No. 23 pursuant to the provisions of Section 380.06, F.S.; and

WHEREAS, on October 9, 1974, July 16, 1975 (designated DRI No. 47), September 6, 1978, November 26, 1980, September 2, 1981, August 18, 1982, and March 25, 1986, the BOCC approved amendments to the Development Order, pursuant to the provisions of Section 380.06, F.S., (hereinafter the March 27, 1974, Development Order, as amended by the above-referenced amendments, shall be referred to as the “Development Order for DRI #23/47”); and

WHEREAS, the amendment to Development Order for DRI #23/47 approved by the BOCC on March 25, 1986, authorized the construction of a prilled sulfur handling facility, but said facility was never built; and

WHEREAS, the Development Order for DRI No. 23/47 has expired; and

WHEREAS, Big Bend Transfer Co., LLC, (the “Developer”) is a Limited Liability Company whose members will be CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend Inc.; and

WHEREAS, the Developer has leased/licensed an approximately 17.93 acre area of the Big Bend Terminal DRI site as identified by the legal description contained in Exhibit “B”, attached hereto and incorporated herein by reference, from IMC Phosphates Company (formerly known as IMC-Agrico Company), the fee simple owner of the DRI site; and

WHEREAS, it has been determined that the project described herein constitutes a substantial deviation to DRI #23/47 pursuant to Chapter 380, F.S.; and

WHEREAS, on April 20, 2000, the Developer filed an "Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact Subsection 380.06 (19), F.S." (the "ADA"), for the Big Bend Terminal DRI in accordance with Section 380.06 (19), F.S.; and

WHEREAS, the ADA proposed revisions to the Development Order for DRI #23/47 to allow up to 2 million long tons of solid sulfur to be imported annually to the site by ship or barge, to be melted and provided to sulfur users in Central Florida, as more particularly stated in the ADA; and

WHEREAS, a comprehensive review of the impacts generated by the project has been conducted by all applicable state, regional and local agencies;

WHEREAS, the proposed amendments to the Development Order for DRI #23/47 are only applicable to the approximately 17.93 acre area leased/licensed by the Developer and described in Exhibit "B"; and

WHEREAS, the land encompassed within the ADA lies wholly within the unincorporated area of Hillsborough County; and

WHEREAS, the public notice requirements of Section 380.06, F.S., and the Hillsborough County Land Development Code (the "LDC"), as amended, have been satisfied; and

WHEREAS, on October 23, 2000, the Zoning Hearing Master appointed pursuant to the LDC conducted a duly-noticed public hearing on the ADA, at which the reports and recommendations of the Tampa Bay Regional Planning Council ("TBRPC"), the Hillsborough County Planning and Growth Management Department ("PGMD"), the Hillsborough County-

City Planning Commission (the "Planning Commission"), and other testimony, documents and evidence were received and considered; and

WHEREAS, on November 14, 2000, the Zoning Hearing Master filed a report and recommendation of approval with the BOCC; and

WHEREAS, on December 12, 2000, January 9, 2001 and January 18, 2001, the BOCC held a duly-noticed public hearing on the ADA and considered testimony, documents and evidence within the record made before the BOCC; and

WHEREAS, the BOCC has received and considered the reports and recommendations of the Zoning Hearing Master, TBRPC, PGMD, the Planning Commission, and other state, regional and local government agencies; and

WHEREAS, the BOCC has solicited, received and considered the reports, comments, testimony, documents and evidence presented by the Developer and interested citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, IN REGULAR MEETING ASSEMBLED THIS 18th DAY OF JANUARY, 2001, THAT THE APPLICATION FOR DEVELOPMENT APPROVAL FOR THE SULFUR HANDLING FACILITY SUBMITTED BY THE DEVELOPER, IS HEREBY APPROVED WITH CONDITIONS, SAID APPROVAL BEING BASED UPON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

I. FINDINGS OF FACT

- A. The Developer is a Limited Liability Company whose members are CF Industries, Inc., Cargill Fertilizer, Inc. and IMC Big Bend, Inc.

- B. The Developer has leased/licensed a certain area of the Big Bend Terminal DRI site, as identified by the legal description contained in Exhibit "B", from IMC Phosphates Company, the fee simple owner of the DRI site.
- C. The authorized agent for IMC Big Bend, Inc., is Mr. Herman Wittje, which is the Managing Member of the Developer, Big Bend Transfer Co., LLC.
- D. The Developer submitted an ADA for a substantial deviation to an existing DRI to Hillsborough County, which requested amendments to the Development Order, as more particularly stated in the ADA, which is incorporated into this Development Order by reference.
- E. The subject of the ADA is the development of a Sulfur Handling Facility (hereinafter the "Facility"). The Facility will be located on the area of the Big Bend Terminal leased/licensed by the Developer, as described in Exhibit "B".
- F. The land subject to this Development Order is wholly within the Coastal High Hazard Area (CHHA) and the Urban Service Area.
- G. The Facility is consistent with Policy 6.7 of the Coastal Management Element of the Future of Hillsborough Comprehensive Plan.
- H. For purposes of DRI review, the Facility is an industrial land use pursuant to Section 380.0651, F.S., and Chapter 28-24, Florida Administrative Code ("F.A.C.").
- I. The Facility is not within an area of critical state concern as designated pursuant to Section 380.05, F.S.
- J. As determined by the TBRPC in its preapplication review of the ADA, the Facility will not increase the burden on the existing public facilities of the region.

- K. Subject to the conditions of this Development Order, the Facility will not adversely affect the state and regional resources identified in the State Comprehensive Plan, or the TBRPC Strategic Regional Policy Plan (entitled the "Future of the Region: A Strategic Regional Policy Plan"). Further, the Facility will not adversely impact adjacent jurisdictions or the availability of affordable housing.
- L. TBRPC, at the conclusion of its October 9, 2000, public meeting on its staff's review and recommendation of the ADA, voted to recommend approval of the Facility, with conditions, to the BOCC.
- M. The information and data contained within the ADA are sufficient for the BOCC to review the Facility as required by Section 380.06, F.S.
- N. On December 12, 2000, January 9, 2001 and January 18, 2001, the BOCC held the required public hearings on the ADA, heard all testimony offered and received evidence and documents pertaining to the Facility, including but not limited to the reports and recommendations of TBRPC, PGMD, the Planning Commission, and the Zoning Hearing Master.

II. CONCLUSIONS OF LAW

- A. After review by the BOCC of the various written and oral reports, memoranda and letters associated with the review of the Facility, the BOCC concludes that all statutory procedures have been adhered to and the impacts of the Facility are adequately addressed pursuant to the requirements of Section 380.06, F.S., within the terms and conditions of this Development Order.

- B. In considering whether the Facility should be approved subject to various conditions, restrictions and limitations contained in the Development Order, the BOCC has considered the criteria stated in Chapter 380, F.S., and including those in subsection 380.06(14), F.S., and Chapter 9J-2, F.A.C.
- C. The Facility, as described in the ADA, shall be subject to the terms of this Development Order and shall not be subject to future DRI review pursuant to Section 380.06, F.S., unless the BOCC determines that any proposed changes to the Facility constitute a substantial deviation pursuant to Section 380.06(19), F.S., and the conditions contained herein.
- D. Based on the compliance with the terms and conditions of this Development Order, the ADA, the reports, recommendations and testimony heard and considered by the Zoning Hearing Master, together with the reports, recommendations and testimony heard and considered by the BOCC, it is concluded that:
1. The development approved hereby is consistent with the State Comprehensive Plan as a whole;
 2. The development does not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan applicable to the area;
 3. The development is consistent with the TBRPC Future of the Region: A Strategic Regional Policy Plan;
 4. The development is consistent with the report and recommendations of TBRPC submitted pursuant to Subsection 380.06(12), Florida Statutes; and
 5. The development is consistent with the Comprehensive Plan of Hillsborough County and with the LDC.

- E. Based on the Hillsborough County Comprehensive Plan, Future Land Use Element and Map, the Facility is situated on land designated as a Heavy Industrial land use classification and is consistent therewith.
- F. Based on the Hillsborough County Zoning Atlas and LDC, the Facility is situated on land designated as a Manufacturing (M) zone and is consistent therewith.

III. SPECIFIC CONDITIONS

- A. A revised Map "H", dated October 10, 2000, is adopted as part of this Development Order, and is attached hereto as Exhibit "C" and incorporated herein by reference.
- B. The following development is hereby authorized:
 - 1. One (1) ship/barge unloader.
 - 2. A conveyor system.
 - 3. One (1) solid sulfur storage building totaling 154,000 square feet with a capacity of 78,000 tons.
 - 4. A sulfur melting building totaling 17,100 square feet and three (3) solid sulfur melters.
 - 5. One (1) boiler.
 - 6. Three (3) liquid sulfur storage tanks with a capacity of 10,000 tons each.
 - 7. One (1) process/purge water storage tank.
 - 8. One (1) fuel oil storage tank with a capacity of 12,000 gallons.
 - 9. Four (4) liquid sulfur truck loading stations.
 - 10. One (1) caustic soda storage tank with a capacity of 7,500 gallons.
 - 11. One (1) liquid sulfur rail car loading station.
 - 12. Miscellaneous support facilities which are ancillary to the Facility's operation (e.g., pipelines, offices).

- C. No in-water construction or development is authorized by this Development Order. Any proposal by the Developer to increase the depth of the access channel or dockside berths, or to increase the size of the draft vessels serving the Facility, shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

- D. All new development shall comply with all applicable provisions of the Land Development Code.

- E. All development shall be in accordance with Chapters 62-296.411, 62-212.600, and 62-4, F.A.C.

- F. All development shall be consistent with Hillsborough County Environmental Protection Commission (the "EPC") Permit No. 0571244-001-AC.

- G. No more than 2 million (2,000,000) long tons of solid sulfur per year may be brought into the Facility. In each annual report the Developer shall identify the total amount of solid sulfur brought into the facility each reporting year.

H. SOILS

The Developer shall use Best Management Practices and the erosion control techniques listed on page 15-1 of the ADA during site preparation and construction.

I. FLOODPLAINS

The floors of all structures located within the 100-year floodplain shall be constructed above the 100-year flood elevation as determined by the Federal Emergency Management Agency ("FEMA").

J. WATER SUPPLY

1. The Developer shall use non-potable “reclaimed” water within 30 days of being advised by Hillsborough County that it is available, and shall use it for all suitable uses to the maximum extent possible. The Big Bend Sulfur Handling Facility (DRI #245) and development on the Big Bend Terminal DRI site (DRI #23/47) shall not use more than the 62,000 gallons per day of potable water used by the Big Bend Terminal DRI prior to approval of the Big Bend Sulfur Handling Facility. In the event that reclaimed water is not available to service additional water needs for the Sulfur Handling Facility operations, the Developer shall use non-potable water from other sources, such as municipalities or BBTC member facilities, on an interim basis, until such time that reclaimed water becomes available.
2. The Developer shall utilize high-efficiency (low volume) plumbing fixtures and other water conserving devices.

K. WASTEWATER

1. New on-site sewage disposal systems (septic tanks) shall not be permitted. The Developer shall connect to the County’s sanitary sewer system. The Developer may not seek hardship exceptions to this requirement as provide for in the Future of Hillsborough Comprehensive Plan and the LDC.
2. No industrial wastewater shall be disposed of on-site. “Process” water (also termed “scrubber” or “purge” water) shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC.

L. STORMWATER MANAGEMENT AND WATER QUALITY

1. The Facility shall utilize the existing stormwater facilities within DRI #23/47. The current standard of zero discharge of stormwater shall be maintained throughout the life of the Facility, in accordance with any permits issued by the Florida Department of Environmental Protection (“FDEP”).
2. The Developer will operate and maintain the drainage system within the lease/licensed area as provided in the ADA after completion of the development.
3. The Developer will initiate water quality monitoring of the onsite stormwater ponds in accordance with FDEP permits. The parameters that shall be sampled for in the stormwater ponds shall include, but not be limited to, the following: (1) pH, (2) Temperature, (3) Dissolved Oxygen, (4) TRPH – Total Recoverable Petroleum Hydrocarbons, (5) Total Suspended Solids and (6) Total Nitrogen. Samples shall be taken four times per year, twice during the wet season and twice during the dry season. The results of the water quality monitoring shall be included in the project’s Annual Report.
4. The Developer shall monitor groundwater conditions from one (1) location. The parameters to be monitored shall include Nitrate-N, Total Kjeldahl Nitrogen, Total Nitrogen, Total Phosphorous, and Total Dissolved Solids. The Developer shall report the findings of the monitoring program in the Annual Report.

M. SOLID WASTE/HAZARDOUS MATERIALS

1. The Developer will comply with all Superfund Amendment and Reauthorization Act (SARA), Title III requirements on the handling, storage and reporting of hazardous materials.

2. A Spill Prevention Control and Countermeasure Plan (the "Spill Plan") pursuant to Chapter 40, Code of Federal Regulations, Part 112, shall be developed prior to the operation of the Facility. Any petroleum spills will be handled in accordance with the Spill Plan. The Developer shall submit the Spill Plan for review and approval to the Hillsborough County Emergency Management Department prior to operation of the Facility. The Spill Plan shall be made available for review by the Occupational Safety and Health Administration.
3. No more than 7,500 gallons of Caustic Soda shall be stored at the Facility at any one time.
4. Secondary containment devices shall be constructed surrounding the fuel and Caustic Soda tanks.
5. All waste filter cake shall be removed from the Facility and taken to any of the chemical plants of the members of Big Bend Transfer Co., LLC, for disposal.
6. No hazardous waste shall be generated or stored at the Facility.

N. TRANSPORTATION

1. Under normal traffic conditions no trucks carrying sulfur from the Facility shall use Madison Avenue/Progress Boulevard. The Developer shall notify all trucking companies using the Facility of this requirement.
2. All trucks serving the Facility shall utilize truck routes designated by the County.
3. The cargo beds of vehicles transporting the cake filter wastes shall be covered with tarpaulins in order to prevent spillage.

O. AIR

1. The Developer shall use all equipment and/or techniques, or their equivalents, for air quality control as discussed in the ADA, including, but not limited to, vapor recovery and scrubbing, dust suppression spray, and dust collection throughout the life of the Facility.
2. The boiler utilized by the Facility shall burn very low sulfur (0.05%) #2 fuel oil.
3. The Facility shall use natural gas to operate the boiler for the solid sulfur melters if and when a natural gas pipeline is available to the west of U.S. 41 in the vicinity of Pembroke Avenue.

P. HURRICANE PREPAREDNESS

The Developer shall prepare a Hurricane Preparedness Plan and submit it to PGMD, TBRPC and the Florida Department of Community Affairs (“DCA”) for review prior to operation of the Facility. At a minimum, such Hurricane Preparedness Plan shall be included in the first Annual Report following commencement of construction.

Q. ENERGY

All equipment used on the Facility site shall be designed to efficiently use energy.

R. VEGETATION and WILDLIFE

1. The Developer shall construct a “fendering system” for manatee protection on the dock serving the Facility pursuant to rules of the Florida Fish and Wildlife Conservation Commission (“FFWCC”).

2. In the event that any additional state or federally listed species or colonies of species are discovered using the project site for breeding, the Developer shall immediately notify the FFWCC and implement the recommended measures for species protection.
3. In the event that any in-water development is proposed, the Developer shall coordinate with the FFWCC to ensure that standard manatee construction conditions are followed for all in-water construction. Additionally, any in-water construction shall occur only during the times of year recommended by the FFWCC.

S. OPERATIONS

1. The Developer shall not unload, store, or manufacture at the Facility any sulfur products commonly known as vatted sulfur, crushed bulk sulfur or slated sulfur.
2. The Developer shall not dispose of any reclaimed, contaminated or waste sulfur at the Facility.
3. The Developer shall follow all applicable provisions of the Hillsborough County Fire Code and all recommendations of the Hillsborough County Fire Department as may be necessary for fire prevention and control at the Facility, and shall further provide adequate access for firefighting equipment to any berthed ships containing sulfur.
4. The Developer shall dedicate or cause the dedication of 2 acres of developable land to Hillsborough County, acceptable to the Hillsborough County Fire Department, for a HAZMAT (hazardous materials) fire facility within the boundaries of the Big Bend Terminal DRI (#23/47), or purchase 2 acres off-site within 2 miles of the DRI boundary. The conveyance of said 2 acres to

Hillsborough County shall occur within 2 years from the effective date of this Development Order.

5. Prior to the operation of the facility, the Developer shall provide the County with evidence of an insurance policy with limits of \$1 million for any on-site environmental pollution and limits of \$10 million to cover any off-site liability or third party damage or claim including but not limited to the following situations: the spill, discharge, dispersal, seepage, migration, release or escape of pollutants caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, or flood. Hillsborough County shall be named as an additional insured on the policy. The policy shall be annually renewed. A draft policy shall be provided to the County for review and approval at least 90 days prior to the Facility becoming operational.

Alternatively, if the insurance coverage listed above is no longer available, the Developer shall furnish the County with evidence of financial responsibility in the above amounts in sufficient detail satisfactory to the County's Division of Insurance and Claims and the County Attorney's Office.

IV. GENERAL PROVISIONS

- A. This Resolution shall constitute the Development Order of Hillsborough County for DRI #245 adopted in response to the ADA for the Big Bend Transfer Co., LLC, Sulfur Handling Facility.
- B. The above stated recitals, findings of fact and conclusions of law are incorporated into and by this reference made a part of this Development Order.
- C. This Development Order is only applicable to the Developer's leased/licensed area, as described in Exhibit "B".

- D. All provisions or commitments made by the Developer within the ADA shall be considered conditions of this Development Order unless inconsistent with the terms and conditions of this Development Order, in which case the terms and conditions of this Development Order shall control.
- E. The definitions contained in Chapter 380, F.S., shall govern and apply to this Development Order.
- F. This Development Order shall be binding upon the Developer, its assigns or successors in interest, including any entity that may assume any of the responsibilities imposed on the Developer by this Development Order. It is understood that any inference herein to any governmental agency shall be construed to include any future instrumentality that may be created or designated as successor in interest to, or that otherwise possesses any of the powers and duties of, any branch of government or governmental agency.
- G. Physical development of the Facility shall begin within two years of the effective date of this Development Order, provided that the Developer has received all necessary, final and nonappealable permits to do so. In the event that the Developer has not timely received all necessary, final and nonappealable permits to commence construction of the Facility within the timeframe specified above for any reason beyond the Developer's control, then the development of the project shall commence within sixty (60) days after receipt of all necessary, final and nonappealable permits to do so.
- H. The project shall be developed as a single phase with a buildout of December 31, 2020, or whenever all proposed development is completed, whichever occurs first.
- I. This Development Order shall remain in effect for a period up to and including December 31, 2020, or at project buildout, whichever occurs first. Any development activity for which plans have been submitted to the County for its review and approval prior to the expiration date of this Development Order may be completed, if approved. This

Development Order may be extended by the BOCC consistent with the requirements of Subsection 380.06(19), F.S. It is recognized that operation of the Facility may continue indefinitely after project buildout and expiration of the Development Order. However, no new development may occur after the expiration of the Development Order. Any new development proposed after the expiration of the Development Order shall require a substantial deviation determination.

- J. Whenever this Development Order provides for or otherwise necessitates reviews or determinations of any kind subsequent to its issuance, the right to review shall include all directly affected government agencies and departments as are or may be designated by the BOCC to review development of regional impact applications as well as all governmental agencies and departments set forth under applicable laws and rules governing developments of regional impact.
- K. Proposed development activity that constitutes a substantial deviation from the terms or conditions of this Development Order under the terms of Section 380.06(19)(b), F.S., as it may be subsequently amended or superseded, or other proposed changes to the approved DRI which are determined to be a substantial deviation pursuant to the criteria and procedure of Section 380.06(19), F.S., as it may be subsequently amended or superseded, shall result in further DRI review.
- L. The Administrator of Hillsborough County, or the Administrator's designee, shall be responsible for monitoring and assuring compliance with all terms and conditions of this Development Order. For purposes of this condition, the County Administrator may rely upon or utilize information supplied by any Hillsborough County department or any federal, state or local agencies having particular responsibility over the area or subject involved. The County Administrator shall report to the BOCC any findings of deviation from the terms and conditions of this Development Order. In the event of a deviation, the County Administrator may recommend that the BOCC set a hearing to consider such deviations. Any development activity constituting a change from the approved

development plan shall also be reviewed, where appropriate, pursuant to the provision of the Hillsborough County LDC.

- M. The provisions of this Development Order shall not be construed as a waiver of or exception to any rule, regulation, or ordinance of Hillsborough County, its agencies or commissions, and to the extent that further review is provided for in this Development Order or required by Hillsborough County, said review shall be subject to all applicable rules, regulations and ordinances in effect at the time of the review.

- N. Except as otherwise provided herein, the previously approved Development Order for DRI #23/47 and amendments thereto for the Big Bend Terminal DRI shall remain unchanged.

- O. The Facility approved hereby shall not be subject to down-zoning, or intensity reduction until December 31, 2020, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of this Development Order have occurred, or that this 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.

- P. The Developer shall file an annual report in accordance with the requirements of Section 380.06 (18), F.S., on Form RPM-BSP-ANNUAL REPORT-1. The annual report shall contain all information required by that form and Subsection 9J-2.025(7), F.A.C. The annual report shall be due on the anniversary of the effective date of this Development Order for each following year until completion of all construction as proposed in the ADA and all terms and conditions of this Development Order are satisfied. The annual report shall be submitted to the County Administrator, and all other entities as specified in Section 380.06(18), F.S. The County Administrator shall, after appropriate review, submit the annual report for review by the BOCC. The BOCC shall review the report for compliance with the terms and conditions of this Development Order and may issue further orders and conditions to insure compliance with the terms and conditions of the

Development Order. The Developer shall be notified of any BOCC hearing wherein such report is to be reviewed. The receipt and review by the BOCC of the Annual Report shall not be considered a substitute or waiver of any terms or conditions of the Development Order.

- Q. In the event any portion of this Development Order shall be found to be unenforceable by a court of competent jurisdiction, and if the Developer and the County mutually agree that the deletion of such provision(s) does not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder), then in that event, the remainder of the Development Order shall remain in full force and effect.

- R. In connection with all regulatory permits required in the future for the Facility, the Developer shall be required to comply with all laws, rules and regulations in effect at the time the Developer submits complete and sufficient permit applications(s). However, except as expressly otherwise provided herein, the laws, rules and regulations in effect as of the effective date of this Development Order shall be deemed to be the applicable laws, rules and regulations for the purpose of interpreting all other terms contained in this Development Order, and the Developer shall retain its rights under Section 163.3167(8), F.S.

- S. The Developer shall record a Notice of Adoption of this Resolution in accordance with Section 380.06(15), F.S.

- T. This Resolution shall become effective upon rendition by the BOCC in accordance with Section 380.06, F.S.

- U. Within thirty (30) days after adoption, a certified copy of this Resolution, together with all exhibits hereto, shall be transmitted by the Ex Officio Clerk to the BOCC by certified mail to DCA, TBRPC and the Developer.

- V. The Developer has certified that full and complete copies of the ADA have been delivered to all persons required by law pursuant to the “Developer’s Affidavit,” attached hereto and incorporated herein as Exhibit “D”.

- W. Any headings contained in this Development Order are for informational purposes only and shall not be construed as limiting or defining any term or condition contained in this Development Order.

- X. All actions tied to the effective date of this Development Order shall be tolled during any period this Development Order may be on appeal pursuant to Section 380.07, F.S., subject to any other judicial or administrative challenge, and during the pendency of administrative or judicial proceedings related to any permits necessary or required for the Facility.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, RICHARD AKE, Clerk of the Circuit Court and Ex Officio Clerk of the BOCC of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of January 18, 2001, as the same appears of record in Minute Book 296 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 14th day of February, 2001.

RICHARD AKE, CLERK



By: Mildred K. Duff
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

By: [Signature]

Approved as to form and legal sufficiency

EXHIBIT A

BIG BEND TERMINAL DEVELOPMENT OF REGIONAL IMPACT #47 LEGAL DESCRIPTION

A parcel of land lying in fractional Section 9 and Westerly thereof and in Section 10, Township 31 South, Range 19 East, Hillsborough County, Florida, described as follows: Beginning at the Northeast corner of Section 9, Township 31 South, Range 19 East, Hillsborough County, Florida, run thence South 89° 48' 37" East along the North line of Section 10 a distance of 1074.85 feet to a point; run thence South 00° 53' 49.5" West along the Westerly boundary of that certain public road right-of-way and a Northerly extension thereof as established by that certain Right-of-way Deed recorded April 12, 1971 in Official Record Book 2296 on page 629, a distance of 1,121.34 feet; run thence North 89° 48' 37" West a distance of 5033.29 feet to a point on the Hillsborough County Bulkhead line as established by the Board of County Commissioners of Hillsborough County, Florida on March 23, 1960, by resolution as recorded in Minute Book 32 of said commission and as shown by that certain map recorded in Plat Book 36 on page 91; run thence North 00°49' 03" East along said Bulkhead Line a distance of 1,121.32 feet to a point on the Westerly extensions of the North line of said Section 9; run thence South 89° 48' 37" East along the North line of said Section 9 and the Westerly extension thereof a distance of 3960.00 feet to the point of beginning.

A parcel of land lying in Section 9 and Section 10, Township 31 South, Range 19 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said section 10, run thence S. 00 degrees 47' 48" W., 250.00 ft. along the East line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 37" W., 247.55 ft. to the Point of beginning; run thence N. 00 degrees 53' 49.5" E., 234.4 ft. to a point established at the Mean High Water Line; continue along average Mean high Water Line:

S 89° 37' 37" W – 955.39 Feet
S 86° 45' 53" W – 502.23 Feet
S 65° 57' 43" W – 328.98 Feet
S 89° 41' 12" W – 1138.87 Feet
S 65° 04' 30" W – 176.71 Feet
N 89° 08' 58" W – 1300.17 Feet
S 79° 53' 06" W – 279.51 Feet
S 46° 20' 34" W – 209.43 Feet
S 09° 15' 57" W – 674.61 Feet

Run thence S 89 degrees 48' 37" E. 4874.40 ft. to a pint on the W. side of the road easement; run thence N. 00 degrees 53' 49.5" E., 871.33 ft. to the Point of beginning.

A section of land lying in Section 9 and Section 10, Township 31 South, Range 18 East, Hillsborough County, Fla., more particularly described as follows: Commence at the NE corner of the NW ¼ of the NW ¼ of said Section 10, run thence S. 00 degrees 47' 48" W. a distance of 250.00 ft along the E. line of the W. ½ of the NW ¼ of said Section 10; run thence N. 89 degrees 48' 57" W. 247.55 ft. to a point on the E. property line and W. right-of-way line of County Road,

run thence S. 00 degrees 53' 49.5" West along said right-of-way line a distance of 871.33 ft. to the point of beginning; run thence N. 89 degrees 48' 37" W. a distance of 4874.40 ft. to a point established as the Mean High Water Line; continue along all Mean High Water Line:

S 05° 50' 38" W – 680.15 Feet

S 25° 56' 57" E – 221.47 Feet

S 54° 37' 47" E – 126.51 Feet

N 89° 59' 49.1" E – 4060.26 Feet

S 03° 26' 40.5" E – 420.50 Feet

Run thence N. 89 degrees 06' 10.5" E a distance of 636.78' to a pint; run thence North 00 degrees 54' 37" East a distance of 1,342.57 ft. to the point of beginning.

210.82 acres, MOL

EXHIBIT B

BIG BEND TRANSFER CO., LLC
LEASE/LICENSE AREA
(10/13/00)

That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance 261.76 feet to a witness corner landward of a ships docking facility; thence continue S.00°49'26"W. and landward a distance of 273.19 feet for a POINT OF BEGINNING; thence S.89°48'37"E. a distance of 192.63 feet; thence S.00°45'29"W. a distance of 445.88 feet; thence N.89°46'20"W. a distance of 300.00 feet; thence N.44°47'10"W. a distance of 60.00 feet; thence S.89°40'06"W. a distance of 951.66 feet; thence N.04°10'00"E. a distance of 33.31 feet; thence N.06°07'34"E. a distance of 129.49 feet; thence N.10°26'31"E. a distance of 112.98 feet; thence N.12°23'07"E. a distance of 75.13 feet; thence N.20°52'51"E. a distance of 50.88 feet; thence N.54°57'00"E. a distance of 30.59 feet; thence S.89°48'37"E. a distance of 1011.19 feet to the POINT OF BEGINNING. Said tract contains 12.14 acres more or less.

And

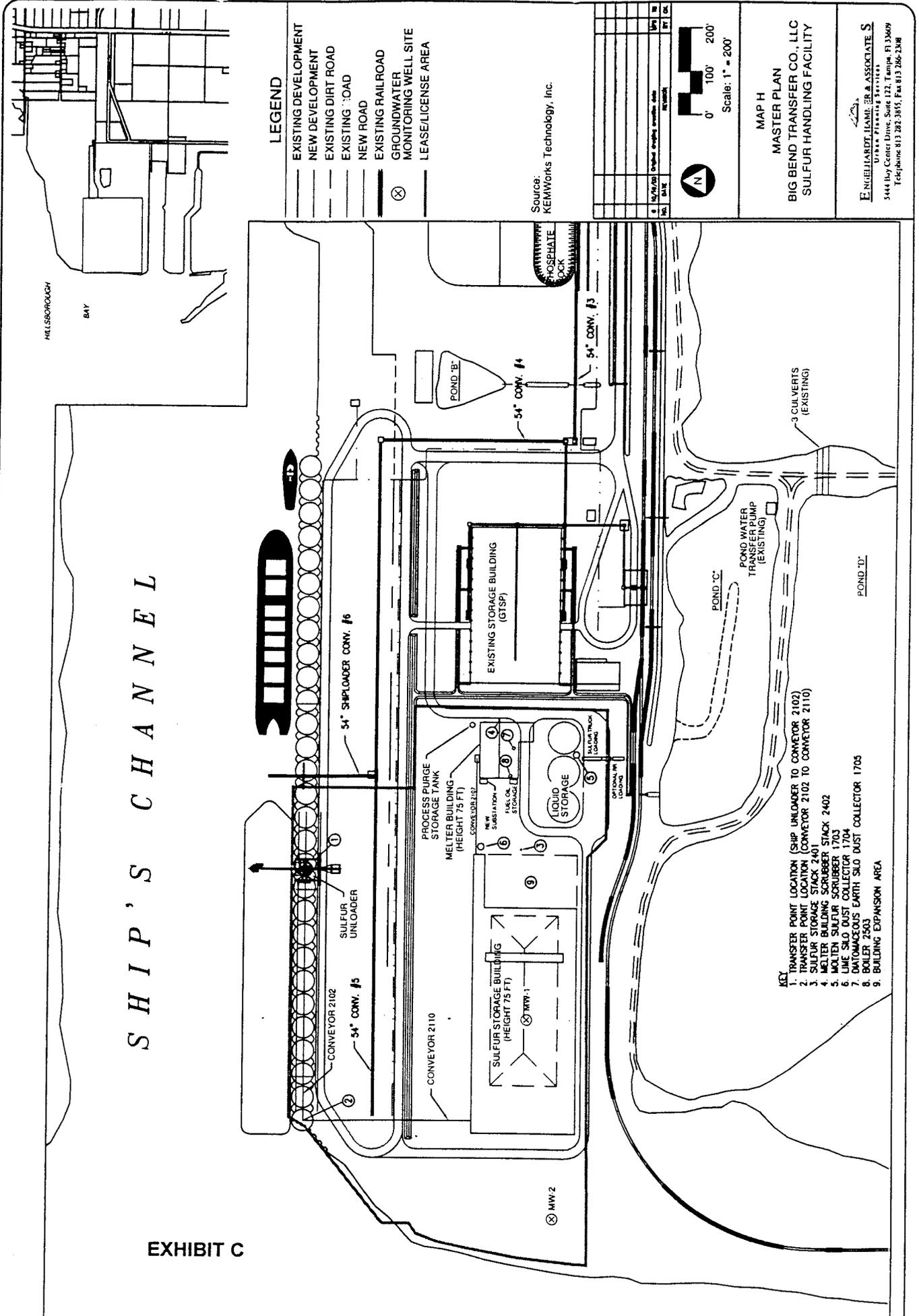
That part of the North ½ of fractional Section 9 and Westerly extension thereof, all in Township 31 South, Range 19 East, Hillsborough County, Florida, described below. As a point of reference COMMENCE at the northeast corner of said Section 9 (being the northwest corner of Section 10); run thence N.89°48'37"W. along the North line of said Section 9 a distance of 2644.47 feet; thence S.00°49'26"W. a distance of 257.51 feet for a point of beginning; thence continue S.00°49'26"W. a distance of 277.44 feet; thence N.89°48'37"W. a distance of 1011.19 feet; thence N.00°00'00"W. 61.38 feet; thence N.51°48'43"E. a distance of 287.65 feet; thence N.28°22'55"E. a distance of 42.81 feet; thence S.89°49'34"E. a distance of 767.86 feet to the POINT OF BEGINNING. Said tract contains 5.79 acres more or less.

Total Lease/License area contains 17.93 acres more or less.

NOTE: The bearings used in this description are based upon deed in O.R. 5169 PG 169 and monuments recovered from survey by Watson & Co. dated December 9, 1972.

SHIP'S CHANNEL

EXHIBIT C



- LEGEND**
- EXISTING DEVELOPMENT
 - NEW DEVELOPMENT
 - EXISTING DIRT ROAD
 - EXISTING DIRT ROAD
 - EXISTING ROAD
 - NEW ROAD
 - EXISTING RAILROAD
 - GROUNDWATER MONITORING WELL SITE
 - LEASE/LICENSE AREA

Source:
KEMWorks Technology, Inc.

NO.	DATE	DESCRIPTION	BY	CHK
1	10/29/03	Original design, existing data	MM	MM
2				
3				
4				
5				
6				
7				
8				
9				



MAP H
MASTER PLAN
BIG BEND TRANSFER CO., LLC
SULFUR HANDLING FACILITY

ENGINEER: JAMES R. ASSOCIATE S
 CIVIL & PLANNING SERVICES
 5444 Bay Center Drive, Suite 122, Tampa, FL 33609
 Telephone: 813 282-3845, Fax: 813 286-2348

- KEY**
1. TRANSFER POINT LOCATION (SHIP UNLOADER TO CONVEYOR 2102)
 2. TRANSFER POINT LOCATION (CONVEYOR 2102 TO CONVEYOR 2110)
 3. SULFUR STORAGE STACK 2401
 4. MELTER BUILDING SCRUBBER STACK 2402
 5. MOLTEN SULFUR SCRUBBER 1703
 6. LIME SILO DUST COLLECTOR 1704
 7. DYNAMIC EARTH SILO DUST COLLECTOR 1705
 8. BOILER 2503
 9. BUILDING EXPANSION AREA

AFFIDAVIT

STATE OF FLORIDA

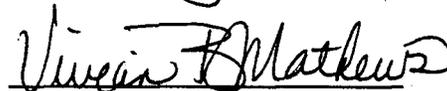
COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared Tim Butts, to me well known, who being first duly sworn, says upon oath as follows:

1. He is a consultant for Big Bend Transfer Co., LLC, which has filed its Application for Development Approval for a Substantial Deviation to a Previously Approved Development of Regional Impact ("Application").
2. The aforementioned Application was filed with Hillsborough County, the State Department of Community Affairs and the Tampa Bay Regional Planning Council as required by law.


Tim Butts

Sworn to and subscribed before me this 12 day of February, 2001 by Tim Butts who is personally known to me.


Notary Public

Vivian B. Mathews
(Print, Type or Stamp)

My Commission Expires:

Vivian B. Mathews
Notary Public State of Florida
Exp. Oct. 31, 2002
CC 782068

EXHIBIT D