

# Opponents stunned as judge OKs proposed Manatee mine

By VICTOR HULL

victor.hull@heraldtribune.com

Phosphate mining opponents grew more optimistic by the day as a state judge repeatedly delayed ruling in a dispute over IMC Phosphate's proposal to strip mine nearly 3,000 acres in the northeast corner of Manatee County.

The longer it took, they figured, the more likely the judge would find merit in arguments against the mine.

But their hope turned to anger and disappointment Friday when the administrative law judge issued his

"I'm just astounded."

ADAM CUMMINGS,

Charlotte County commissioner

117-page decision. Charles A. Stampeles overwhelmingly sided with IMC and the state environmental regulators who wanted to give the company a mining permit.

The ruling has potentially far-reaching implications for the phosphate industry and for the environment. Mining opponents and pro-

ponents alike tensely awaited the outcome, believing that the case could set a precedent for phosphate mining on tens of thousands of acres elsewhere in Southwest Florida.

The decision provides an immediate boost to IMC, the world's largest private phosphate producer, in its quest for permission to mine another 44,000 acres in Manatee, DeSoto and Hardee counties.

And it could prove a devastating setback to the campaign by environmentalists and coastal Charlotte, Sa-

PLEASE SEE MINE ON 16A

# Judge's phosphate mine ruling stuns opponents

MINE FROM 1A

rasota and Lee counties to block mining's southward advance. They've spent more than \$1 million trying to block IMC's permit, on the grounds that it could ruin drinking water resources, wetlands and wildlife habitat.

"I'm just astounded," said Charlotte County Commissioner Adam Cummings, an outspoken mining critic. "I can't imagine how anybody could arrive at that conclusion. I was very confident about the whole thing."

But IMC and the state Department of Environmental Protection considered the ruling a vindication.

"We're very pleased," said Bob Kinsey, IMC's director of operations support. "Hopefully, this reassures the public that our projects and (permit) applications are based on good scientific study."

DEP Secretary David Struhs, in a statement issued by the agency's press office, said: "We have felt all along that our actions were fully consistent

with state laws and department rules. The public can feel comforted in the knowledge that a totally impartial arbiter has found that the will of their elected representatives is being carried out by the executive branch."

Technically, the judge's ruling is a recommendation that the DEP issue an environmental resource permit to IMC. Since the DEP had announced its intent to issue the permit a year ago, the agency is expected to accept the recommendation.

Objections to the ruling must be made within 15 days.

Assuming that the DEP agrees to grant the permit, mining opponents' only recourse would be to appeal the judge's decision in district court.

Overtaking the ruling would be difficult, though not impossible, said Ed de la Parte, Charlotte County's lawyer in the case.

"I don't think it's over yet," Cummings said.

Still, the extent of the judge's ruling in favor of IMC stung the opponents.

Initially, Stampelos' ruling was expected by the end of October. He moved the deadline back four consecutive months, then tacked another week on in March.

"Especially with the continued extensions of time, we had taken that to mean there was a lot of deliberation and thinking going on there, that (Stampelos) didn't accept either party's argument" fully, de la Parte said.

Doug Manson, the Tampa lawyer hired by a Peace River water utility owned jointly by Charlotte, DeSoto, Manatee and Sarasota counties, said he had expected a complex "split-the-baby" ruling that accepted arguments from both sides.

"I would have thought it would be more even-handed," Manson said.

Instead, with few exceptions, Stampelos rejected complaints lodged by Charlotte, Sarasota and Lee counties, the Peace River-Manasota Regional Water Supply Authority, the Environmental Confederation of Southwest Florida and Mana-

Sota-88.

He concluded that any environmental damage would be minor, temporary and more than offset by the improvements IMC has promised. For example, IMC has proposed wiping out 361 acres of wetlands. But it has vowed to create new ones on 538 acres.

Stampelos also denied arguments that the DEP had failed to take a broad enough look at the new mine's impact, particularly in context with others in operation or proposed.

IMC, he said, had met the required legal standard of providing "reasonable assurances" that the mine would not cause "adverse impacts."

"IMC has demonstrated the proposed activities ... will not be harmful to water resources, will not be inconsistent with the overall objectives of the department and will not be contrary to the public interest," he wrote.

At about 17.5 million tons per year, IMC produces most of the phosphate mined in Florida, which in turn accounts for most of the U.S. production and a significant share of the world's. Phosphate is a crucial ingredient in fertilizer, soft drinks, light bulbs and many

**Online:** To read the judge's order, go to [heraldtribune.com](http://heraldtribune.com)

other products.

For decades, most of the phosphate has come from Polk County. But with reserves running out there, the industry is turning to new sites in an area known as the Bone Valley, which stretches from the headwaters of the Peace River near Lakeland to Charlotte Harbor.

At 2,800 acres, the site in northeastern Manatee, the Manson Jenkins Tract, is small compared with other mines.

But it is strategic because it would allow IMC to continue production while waiting for approval of larger mines proposed in the central Peace River valley. The tract is adjacent to IMC's processing plant at Fort Green, on the Polk-Hardee County border. The ore there would last an estimated five to seven years.

In contrast, IMC is seeking permits to mine 20,000 acres east of Wauchula in Hardee County at a site called Ona. Ore there could last several decades.

But the Manson Jenkins Tract is also in the upper drain-

age basins of three environmentally sensitive river systems: the Peace, Myakka and Manatee.

Most of the mine would be in the Horse Creek watershed. Horse Creek flows into the Peace, a drinking water supply for more than 100,000 people and the main supply of fresh water for Charlotte Harbor, a nationally recognized estuary.

The judge acknowledged that mining could reduce the flow in Horse Creek. But he said the reduction would be insignificant and wouldn't harm the water authority's ability to provide drinking water to the public.

Stampelos also said the area has been degraded by farming. IMC's commitment to preserve some natural areas and restore others would actually make the environment better, he ruled.

Finally, Stampelos minimized the chances that mining would cause flooding, or result in the collapse of massive earthen berms that contain water used in processing phosphate.

Although such berms have failed in the past, the chances of another catastrophic collapse are remote, he said.



decor  
chains

TOTAL