

# Ona mine decision back for review

The state takes a second look at allowing a mine in Hardee after denying a permit in Manatee.

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State environmental officials are re-evaluating their decision to permit a major new strip mine in Hardee County in light of a successful legal challenge to a smaller Manatee County mine.

Florida Department of Environmental Protection Deputy Secretary Alan Bedwell ordered a sweeping review this week of the agency's approval of IMC Phosphates' proposed 20.675-acre Ona mine in western Hardee County.

The DEP had announced in January that it would allow the mine, but the permit has been on hold because of a legal fight.

The agency is second-guessing that approval in light of a decision Monday by Florida's top environmental regulator, DEP Secretary David Struhs, to deny IMC's permit for a mine on a nearby site, the Altman Tract, northeast of Bradenton. In denying the permit for that 2,367-acre mine, Struhs agreed with a judge that

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IMC had failed to follow the state's environmental protection rules.

The judge in the Altman case found that IMC had improperly labeled natural features on the mine site, identifying some wetlands as pasture for instance. In addition, the judge said IMC's proposed reclamation wouldn't adequately replace the natural systems destroyed by mining. And he found that IMC failed to meet "financial assurance" rules intended to guarantee that the company could meet its environmental restoration obligations.

Bedwell directed the DEP staff to see if IMC's Ona proposal has similar flaws. The review comes about three weeks before a trial-like hearing pitting Charlotte County, a regional water utility and environmentalists against the DEP and IMC over the Ona permit.

The review could prompt the DEP to reverse its position on the Ona permit or advise IMC to change its mining plan.

### **Stricter requirements?**

IMC contends that the proposed Ona mine has already been extensively scrutinized—more than any other in history. The firm contends that it does a good job of environmental restoration.

Nevertheless, the state's reassessment could signal a major change in the way the state regulates future mining on tens of thousands of acres in Central and Southwest Florida.

The state has historically allowed phosphate mining to dramatically alter the natural landscape. While regulations have required companies to create new wetlands to replace those destroyed by mining, the replacement systems haven't been as diverse or interconnected as the originals.

In the future, mining companies could be forced to make the post-mining landscape more closely resemble what existed before. They could also be required to deposit tens of millions of dollars with the state to ensure that if they went bankrupt, taxpayers wouldn't be stuck paying the bill for repairing land damaged by mining.

DEP spokeswoman Deena Wells said she didn't know how long the review would take or whether it would result in a delay of next month's hearing on the Ona permit.

Although Struhs overturned his staff's stance on the proposed Altman mine, Wells said the turnaround reflected inaccurate information provided by IMC in seeking the permit, not poor work by the DEP in enforcing state rules.

"This isn't to question the professionals that apply the environmental rules and regulations on a daily basis," she said. "He (Struhs) has confidence in the professionals and the work they do."

But mining opponents said the Altman case should be a wake-up call to state regulators that they've been too lax with the phosphate industry. They said the DEP will have a hard time justifying its approval of the Ona mine in the wake

of the Altman decision.

## Similar methods

The state used the same criteria to evaluate the Ona mine as it did for the Altman Tract, said Doug Manson, lawyer for the Peace River-Manasota Regional Water Supply Authority, which is owned by Charlotte, DeSoto, Manatee and Sarasota counties. IMC's plan for reclaiming the Ona site after mining doesn't come close to replacing the variety and different functions of wetlands as the law requires, he said.

Charlotte County's lawyer, Ed de la Parte, noted that large portions of the Ona site would be covered with clay waste deposits and lakes, instead of the mosaic of wetlands there now. He also said the state used the same formula rejected by the judge and Struhs in the Altman case to determine how much money IMC needed to deposit to guarantee environmental restoration for Ona.

"Ona appears even less likely to meet the (environmental protection) standards than the Altman Tract did," said de la Parte, who handled Charlotte's challenge to the Altman permit.

De la Parte said the outcome of the DEP's review of the Ona permit will indicate how far the state is willing to go in changing its policy toward phosphate mining.

"It will determine whether what they're doing is truly a profound change in how they do business, or whether it's lip service," he said.

IMC spokeswoman Diana Youmans noted that the Ona permit was developed through a six-year process involving local, regional, state and federal officials as well as the public.

"There was a thorough review by the public and multiple agencies," she said. "They have been a part of validating this (Ona) application."

Youmans said the company was still reviewing Struhs' decision on the Altman Tract and hadn't decided whether to appeal it or modify its plan to try to get the mine approved.

IMC leads the state in producing phosphate, which is used to produce fertilizer, livestock feed and other products.