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JUL 14 1976

FOR YOUR INFORMATION

COUNTY OF MANATEE, STATE OF FLORIDA

IN RE: APPLICATION FOR DEVELOPMENT)
APPROVAL OF A DEVELOPMENT OF REGIONAL)
IMPACT AND THE APPLICATION OR PETITION)
TO EXTEND OR REVISE AN EXISTING SPECIAL)
EXCEPTION, TOGETHER WITH AN APPLICATION)
FOR APPROVAL OF A MINING MASTER PLAN BY)
PHILLIPS PETROLEUM COMPANY.)

D.R.I. - 7
SE - 842

RESOLUTION CLARIFYING THE RESOLUTION
RENDERING A DEVELOPMENT ORDER
DATED JULY 7, 1976

WHEREAS, on July 7, 1976, Manatee County adopted a resolution (DRI, SE-842) approving, subject to certain conditions, restrictions and limitations, Phillips Petroleum Company's application for development approval of development of regional impact (DRI); and

WHEREAS, since July 7, 1976, questions have arisen as to the meaning and legal effect of the resolution of July 7, 1976; and

WHEREAS, following the adoption of the resolution of July 7, 1976, the Division of State Planning (DSP) and the Tampa Bay Regional Planning Council (TBAPC) filed notices of appeal of the Manatee resolution with the Florida Land and Water Adjudicatory Commission and the County of Sarasota also filed motions to intervene as a party in the DSP and TBAPC appeal; and

WHEREAS, the Phillips' mining master plan which includes a conceptual reclamation plan was not submitted to Tampa Bay Regional Planning Council for review as part of the Phillips' application for development approval; and

WHEREAS, the Phillips' DRI application for development approval shall be revised and expanded to insure that the environmental and economic interests of the region are protected in accordance with the requirements of Chapter 380,

Florida Statutes, and other applicable law; and

WHEREAS, it is the intent of this resolution to provide a procedure for further review and analysis of the Phillips' application for development approval, including the mining master plan and conceptual reclamation plan, under Sections 380.06 and 380.07, Florida Statutes; to require the issuance of further development orders; and to recognize the participation of the Division of State Planning, the Tampa Bay Regional Planning Council and Sarasota County in said review; and

WHEREAS, the parties to the appeal to the Florida Land and Water Adjudicatory Commission have represented to Manatee County that upon the adoption of this development order the parties will seek the dismissal by appropriate order of the pending appeal; and

WHEREAS, the entry of this development order shall not be construed as requiring the approval of any future phosphate mining development orders for other areas in Manatee County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

1. Prior to undertaking development, Phillips shall:

- (a) Revise the mining master plan and conceptual reclamation plan filed with Manatee County to comply with the requirements and criteria for the preservation and restoration of wetland areas as set forth in Exhibit "A", attached hereto and made a part hereof.
- (b) Perform hydrologic studies to establish ground and surface water baseline data for determining what effect the proposed mining operation and the operation of the mining project will have and has upon the water quantity conditions of surrounding lands and the hydrology of the region.

The studies shall include:

- 1) Those required by the SWFAMD in its Order relating to consumptive use, dated May 5, 1976, a copy of which is attached hereto as Exhibit "E" and made a part hereof.
- 2) Determination of weekly stream flow rates for Bud Slough, Wildcat Slough, Big Slough, the central swamp area, Horse Creek, Brandy Branch, Buzzard Roost Branch, and Buzzard Roost Tributary at the approximate points designated on Exhibit "B". These determinations must be made prior to the commencement of mining operations in order to make the necessary determinations for release and diversion of water in these watercourses.
- 3) Determination of the methods by which the watercourse flows will be maintained during the mining operation, including a statement of criteria by which the quantity of flow will be maintained at a rate comparable to that normally and naturally flowing in the watercourse. When watercourses are to be diverted or dammed by the developer, the plans for such works are to be submitted as a part of the application for annual operating permit.
 - (c) Revise the master mining plan to provide for positive protection against dam or dike failure with provisions for secondary dams or alternative solutions in accordance with acceptable engineering techniques and procedures consistent with currently acceptable standards for the protection of the environment.
 - (d) Revise the master mining plan and conceptual reclamation plan to include sections dealing with the potential radiation hazards associated with phosphate mining. Said sections shall clearly set forth in detail the existing background levels of radiation on the property including, but not limited to, background soil and atmospheric levels of Radium-226

and Radon-222. The master mining plan and conceptual reclamation plan shall provide for a proposed methodology for preventing any increase in radiation exposure as a result of development activities, if practicable, but in no event exceeding radiation levels which would endanger public health, safety or welfare. The conceptual reclamation plan shall also provide for a system of monitoring the percolation of water through reclaimed lands to determine the leaching characteristics of radioactive elements in such reclaimed lands.

(e) Revise the master mining plan to include the specific location of Phillips' phosphate beneficiation plant and information describing the real and personal taxable property to be located in the County.

(f) Perform a study defining the economic impact of the Phillips' development on the region and the level of local government services required as a result of the development.

(g) Record, for the preserved areas shown on Exhibit "B", perpetual deed restrictions and covenants to run with the land, in the public records of Manatee County, Florida, allowing only such development as does not impair the wetland ecological functions, including flood water retention, maintenance of seasonal flows in rivers and creeks, filtration of suspended solids, assimilation of dissolved nutrients and wildlife habitat. Said restrictions and covenants shall be enforceable only by Manatee County, DeSoto County, Sarasota County and the Division of State Planning.

2. Phillips shall submit the items specified in paragraph 1 hereof to the DSP, TBRPC, Central Florida Regional Planning Council (CFRPC), and Sarasota County at the same time they are submitted to Manatee County and other governmental agencies. In no event shall said items be provided to the

DSP, TBRPC, CFRPC, and Sarasota County less than sixty (60) days prior to any hearing to be conducted by Manatee County in accordance with the provisions of this order.

3. The Tampa Bay Regional Planning Council shall have the right to make recommendations to Manatee County concerning the items specified in paragraph 1 pursuant to the provisions of Sections 380.06(7) and (8), Florida Statutes.

4. Prior to granting any development orders to Phillips, Manatee County shall hold a hearing in accordance with Section 380.06, Florida Statutes, to consider the revised mining master plan, reclamation plan, and all other information submitted in accordance with paragraph 1 of this order to determine the impacts of the Phillips' development pursuant to the criteria of Chapter 380, Florida Statutes, in light of said information and shall thereafter issue a development order pursuant to the requirements of Chapter 380, Florida Statutes, and other applicable laws, with appropriate findings of facts, which shall approve, deny, or approve with conditions the Phillips' development.

5. DSP, TBRPC and Sarasota County shall have the right to participate as a full party in the hearing before Manatee County provided for in paragraph 4 hereof and they shall have the right to seek review of said proceedings as provided by law.

6. No hearing shall be held by Manatee County, pursuant to paragraph 4 hereof, until all items required by paragraph 1 hereof have been submitted by Phillips. It is the express intent of this paragraph to avoid a mutiplicity of expensive and time-consuming hearings before the Manatee County Commission.

7. Phillips shall establish a formal emergency procedure to immediately notify the City of North Port in the event of a dam or dike break on Phillips' property that

could affect the City's water supply. This requirement shall not affect the requirement that Phillips shall provide for positive protection against dam or dike failure.

8. Upon completion of reclamation of any mining area, and prior to acceptance of such reclaimed areas by Manatee County, Phillips shall prepare and file with Manatee County and all parties named in paragraph 2 hereof a detailed radiological analysis showing radiation levels in the re-claimed areas.

9. It is acknowledged by Phillips Petroleum Company that AMAX Chemical Corporation has entered an option agreement for the acquisition of the Phillips' property. Either Phillips or AMAX shall operate as the "Mining Company", as described in the application for development approval.

Accordingly, Phillips or AMAX shall be entitled to request all necessary and required permits subject to and consistent with the terms and conditions of this order and resolution.

10. The County of Manatee shall receive one-half the tax benefits from all the development's real and personal taxable property, including all improvements, fixtures and equipment in order to offset or mitigate the economic impact of this proposed development upon Manatee County.

11. Phillips shall, prior to development, in coordination with Manatee County and the Florida Division of Archives, History and Records Management undertake a complete archaeological and historical survey of the Phillips' tract under the supervision of a qualified archaeologist. Any site of archaeological or historical significance discovered on the tract shall be preserved or excavated at the developer's expense under a qualified archaeologist's supervision. The final disposition of any discovered site of archaeological or historical significance shall be carried out to the mutual satisfaction of the developer and the Florida Division of Archives, History and Records Management.

12. A copy of the written annual report as required by the Manatee County mining ordinance certifying that the subject project is being developed and/operated according to the conditions set forth in the approved master plan and operating permit shall be transmitted by Phillips to the TBRPC, the DSP, and Sarasota County, and any application to amend the mining master plan shall be transmitted in the same manner.

13. This development order incorporates by reference the representations, terms, and conditions set forth in the application for development approval, the mining master plan, and the development order of July 7, 1976. The terms and conditions set forth in this development order shall supersede such other inconsistent representations, terms and conditions. A substantial deviation from the terms and conditions of this development order shall be deemed to be a new development of regional impact and shall require the filing, review, and approval of a separate application for development approval pursuant to Section 380.06, Florida Statutes, and other applicable laws of the State of Florida.

14. The County Attorney is hereby authorized and directed to cause a certified copy hereof to be served upon the Division of State Planning, the Tampa Bay Regional Planning Council, the Southwest Florida Water Management District, and upon the attorneys of record in these proceedings.

ADOPTED in regular session with a quorum present and voting, this _____ day of _____, 1978.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By _____ Chairman

ATTEST:

Clerk of the Circuit Court

By _____ Deputy Clerk

EXHIBIT A

PRINCIPLES AND CRITERIA FOR WETLANDS RECLAMATION

1. The wetlands designated for preservation, as shown in Exhibit B, shall not be disturbed or encroached upon in any manner, except as provided herein. Because of the configuration of Phillips' property and the location, size and shape of the preservation areas, there are four locations, as shown in Exhibit B and herein referred to as "Crossings", where access or movement across preservation areas may be necessary. The locations shown on Exhibit B are approximate locations and shall be finalized as to location as part of the revised master mining plan. Also, the locations shall be staked in the field prior to any encroachment of the preservation area. In addition, it is agreed as follows:

- a) Should an alternate site be made available for crossing Horse Creek in the areas north of State Road 70, Phillips shall agree to relocate and use the alternative site, provided the alternative site is reasonably close and accessible from the Phillips' property.
- b) The width of the Horse Creek Crossing north of State Road 70 shall be no more than 175 feet. The width of the Horse Creek Crossing south of State Road 70 shall be no more than 175 feet and there shall be no permanent access road across Horse Creek at this Crossing. The width of the Buzzard Roost Tributary Crossings shall be no more than 250 feet. The Crossings at the stream or watercourse shall be perpendicular to the flow of the stream. In addition, prior to any construction involving the Crossings

over Horse Creek the plans for these Crossings shall be submitted to DSP for approval to insure that the plans are consistent with the terms and conditions hereof.

c) Phillips shall cooperate in seeking alternative sites to crossing the preservation areas.

d) Phillips shall make available up to \$100,000 for the acquisition of an alternative site to cross Horse Creek north of State Road 70. Provided, however, Phillips shall not have to make these funds available until such time that Phillips has the necessary permits and approvals to begin mining.

e) Phillips shall maintain a vegetative cover on the approaches to the crossing sites to minimize erosion and prevent sedimentation.

f) Access roads within the crossings shall be no more than 15' wide and use of these access roads shall be limited.

g) After particular uses, such as dragline crossings, pipeline crossings and access, have terminated, the areas shall be restored to a condition equal to or, at Phillips' election, better than the condition that existed prior to mining.

h) To minimize the impact on the wetland areas and to reduce the number of crossings of these wetland areas, Phillips agrees to make available these Crossings, so that other mining companies may utilize the same Crossings. In making these sites available, Phillips shall have the right to

provide the sites, subject to appropriate terms and conditions, including the right to continue using the site and to be held harmless for any damage resulting from other users' activities within the sites. However, this provision is not to be construed to mean that Phillips has any obligation to provide access through any area other than through the preservation areas. Additionally, should other mining companies utilize any of the Crossings, Phillips shall incorporate in the documents permitting these companies to use the Crossings the same terms and conditions provided herein for protecting and preserving the preservation areas.

i) In designing these Crossings and the facilities to be located within these Crossings, extraordinary measures shall be taken to minimize adverse environmental impacts during construction, operations and maintenance. Such measures may include, but not be limited to;

- (1) elevated pipelines;
- (2) maximizing the distance between the stream and the structures supporting the overhead powerlines;
- (3) use of high-strength or double walled pipelines;
- (4) control or regulate runoff within the crossing, so as to prevent the degradation of water quality;
- (5) transmission of recirculated water in high-strength or double walled pipelines within the preservation area; and
- (6) disruption of the natural drainage within the crossings shall be minimized.

2. The wetlands areas designated for restoration, as shown in Exhibit B, shall be reclaimed after mining as wetland areas in a manner which will allow the reestablishment

of wetland ecological functions, including flood water retention, maintenance of seasonal flows in rivers and creeks, filtration of suspended solids, assimilation of dissolved nutrients and wildlife habitat. Except for wetland areas in the Big Slough, all wetlands shall be restored to a condition essentially equal to or, at Phillips' election, better than the wetland condition that existed prior to mining. As to the wetland areas in Big Slough, because extensive drainage within this area has led to a lowered water table, and consequently, resulted in some wetlands making a transition to an upland community, Phillips shall, through its restoration plan for wetlands in Big Slough coupled with a sound water management plan, restore those ecological functions set out above within these wetlands to a condition better than the conditions that existed prior to mining. All reclamation lakes, except for lakes described in paragraph 3 hereof, shall be designed consistent with the concepts shown in Exhibit C. All stream and creek reclamation shall be designed consistent with the concepts shown in Exhibit D.

In connection with determining the existing conditions of these wetlands, Phillips shall perform transects at those approximate locations noted on Exhibit B using acceptable biological techniques. The information to be gathered in these transects shall include relative topographic contours, soil profiles and conditions and vegetative communities.

Reclamation of restoration areas shall be considered complete when all natural vegetation associations in such area are firmly established.

3. The lake designated as "A" in the Big Slough drainage system in Exhibit B and the lake designated as "B" immediately downstream from the preserved central swamp area in Exhibit B shall be shallow lakes with 50% marsh littoral zones. Side slopes shall be no steeper than 12:1 and maximum depths shall not exceed six (6) feet.

4. For the purpose of preventing dewatering and other hydrologic damage to wetland preservation areas, only one side of lands adjacent to a designated wetland preservation area shall be mined at a time. The mined side shall be restored to the designated reclamation elevation prior to the commencement of mining on the opposite side.

5. The lake and marsh system, in the western portion of the site and designated as area "C" on Exhibit B, shall be hydrologically designed to have a set season overland flow through a marsh system into a restored watercourse or wetland preservation area.

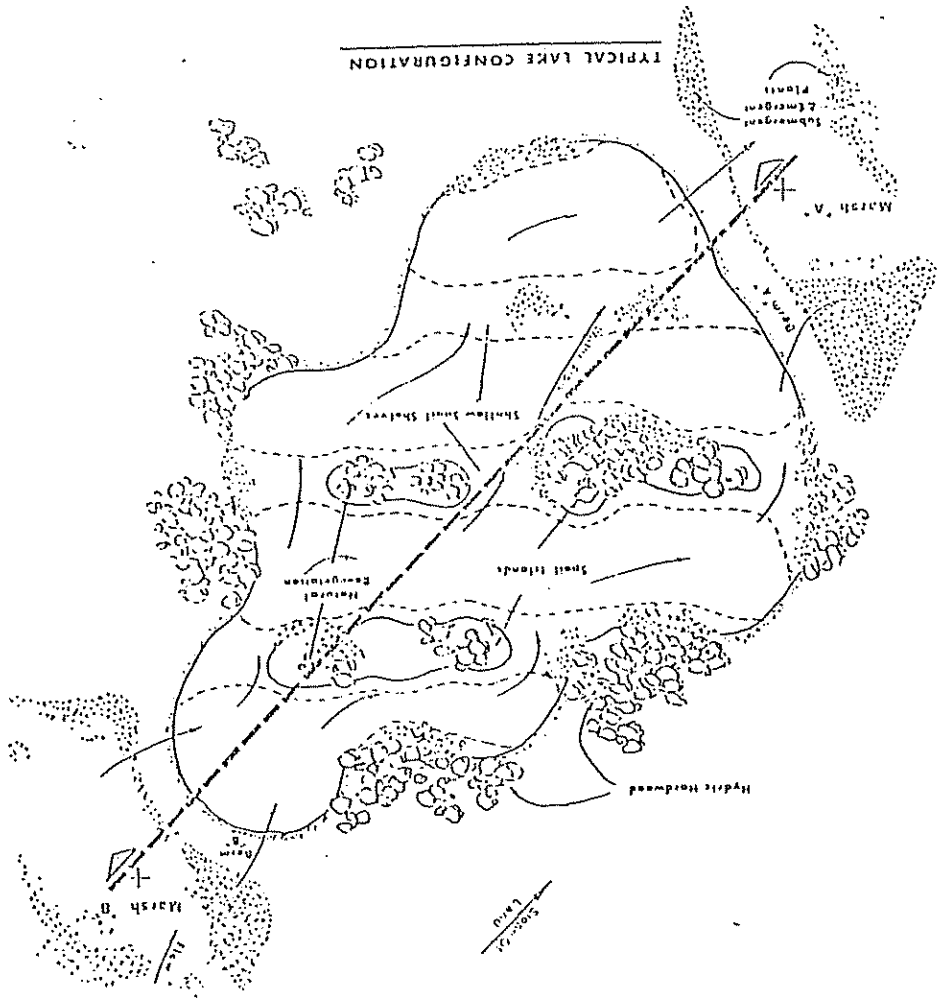
6. In order to maintain the preserved wetland areas in their natural state at all times during the mining and reclamation periods, Phillips shall provide the said wetland areas with surface water essentially equal in quantity and quality to the surface water runoff that normally and naturally flows in these wetland areas.

7. With the exception of introduced grasses for the establishment of improved pasture, only native plant species shall be utilized in the reclamation and restoration plan. Wherever possible, on-site vegetation, such as cabbage palm, should be moved from mining areas to reclamation areas. Native freshwater marsh plants, within areas to be mined, should be utilized as starter and seed stock for lake and marsh reclamation areas. Best management practices and techniques for revegetation, reforestation, erosion control, etc., shall be used in the reclamation of all land forms and natural vegetation associations.

8. The upper two feet of top soil shall be removed before mining and utilized as soon as possible for top dressing on reclamation areas.

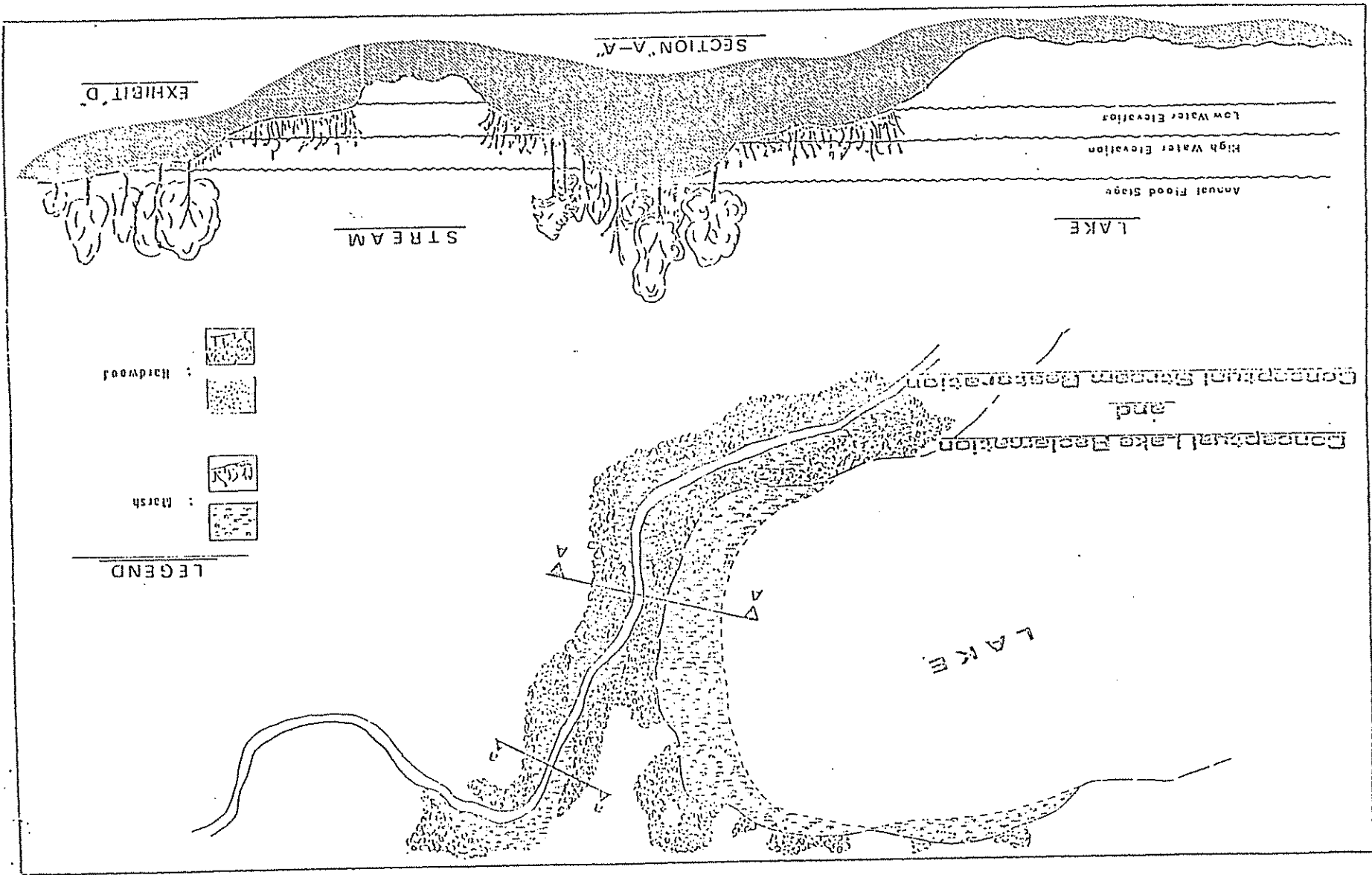


TYPICAL LAKE SECTION



TYPICAL LAKE CONFIGURATION

Conceptual Wetland Reclamation



IN RE:

Application for Consumptive Use Permit)
by Phillips Petroleum Company to) Application No. 7500103
Southwest Florida Water Management }
District }

ORDER REQUIRING HYDROLOGIC TESTING PROGRAM

After due notice a Public Hearing was held before the Governing Board of the District on Tuesday, January 13, 1976 at 9:30 a.m. and Wednesday, February 18, 1976, March 10, 1976 and April 7, 1976 in the Board Room, District Headquarters, Southwest Florida Water Management District, U. S. 41 South, Brooksville, Hernando County, Florida.

ISSUE

Whether a Consumptive Use Permit for quantities of water as applied for should be issued.

FINDINGS OF FACT

On July 1, 1975 Phillips Petroleum Company filed a Consumptive Use Application with the Southwest Florida Water Management District for the withdrawal of 9 million gallons per day (mgd, maximum daily) of water from the Floridan Aquifer via three wells in DeSoto County pursuant to the District's Rules and Regulations, Chapter 16J-2, "Consumptive Use of Water."

Phillips owns 8,700 acres of land in DeSoto County within the Southwest Florida Water Management District, and 6,500 acres of land in Manatee County in the Ridge and Lower Gulf Coast Water Management District. Phillips proposes to mine and beneficiate phosphate on the 15,200 acres and will use the 9 mgd daily withdrawal applied for as a portion of the 15 mgd required to operate the amine floatation portion of the operation. This water, subsequent to its use in the amine float, will enter the plants circulation system for reuse. During periods of excessive dryness, it may be necessary to divert a maximum of 1.5 mgd directly into the circulation system rather than into the amine float.

The hydrologic evaluation of this application has been based upon withdrawals of 15 mgd from wells both within and outside of the District boundaries. An evaluation of the pump test data submitted by Phillips indicates that acceptable

values for transmissivity and storage can be derived. However, due to the interference of regional water level fluctuations, a value for leakage could not be accurately derived. Without an acceptable leakage value, the staff could not accurately predict the effect of Phillips' withdrawals upon the hydrologic system. In addition, possible anisotropy within the system was not addressed during initial testing and indications are that extreme anisotropy may exist. In evaluating the application, a range of leakage values, 10^{-3} - 10^{-5} , were investigated as well as the possibility of anisotropy. Based on the available information, an accurate prediction could not be made on:

Whether the proposed activity will significantly induce salt-water intrusion, and how much and where the potentiometric surface will be lowered.

Additional tests have been recommended to be performed by the applicant and will provide more reliable data for the District staff to evaluate the application.

CONCLUSIONS OF LAW

The parties, while properly proceeding under Chapter 373, F.S., and the Rules promulgated pursuant thereto, have not presented sufficient and documentary evidence for the Governing Board of the Southwest Florida Water Management District to adequately evaluate this application, therefore additional testing must be performed in order to determine the effects of the proposed withdrawals on the natural resources of the area.

ORDER

1. Prior to further consideration, Phillips shall conduct the following hydrologic program:

(a) The new drilling and testing program shall include the construction of a new test production well to be located in the eastern half of Section 24, Township 37 South, Range 22 East in Manatee County as indicated on Exhibit "A". The well shall be drilled to a total finished depth of approximately 1,550 feet with casing set to approximately 300 feet. The well shall be constructed as per the diagram in Exhibit "B" which shall be subject to reasonable modification depending on field conditions encountered.

(b) In addition, three observation wells shall be drilled on a line whose azimuth is 300° from the new test production well at a distance of approximately 1,000 feet, 2,500 feet and 4,000 feet as indicated on Exhibit "A". The wells shall be designed to monitor water level changes in the production zone and shall be constructed to a total finished depth of approximately 1,550 feet with casing set at approximately 300 feet.

(c) An observation well open to the overlying unpumped deposits shall also be installed at a distance of less than 200 feet from the pumped well as indicated on Exhibit "A". The water level changes in this well shall also be measured. The vertical permeability of confining unit materials in the vicinity of this well shall be determined using the ratio method of analysis (Heuman, Witherspoon; Water Resources Research 1972, P.1234).

- (d) Three long-term observation wells shall be installed on the property boundary in Section 20, Township 37 South, Range 22 East, Section 6, Township 38 South, Range 23 East, and Section 29, Township 37 South, Range 23 East as indicated on Exhibit "A". These wells shall be designed to monitor water level changes in the production zone and shall be constructed to a total finished depth of approximately 1,550 feet with approximately 300 feet of casing. The diameter shall be suitable for accommodating stage recording devices.
- (e) A mineralized water monitor well shall be designed and constructed at the location indicated on Exhibit "A", or at such other locations, as is mutually agreeable, so that changes in elevation of the fresh/mineralized water interface can be monitored during pumping.
- (f) The wells shall be drilled by a combination of the mud-rotary and reverse air circulation methods. During the drilling, formation samples shall be collected from all the wells at five-foot intervals and a description of the materials penetrated will be prepared. Water samples shall be collected from the new test production well below the cased zone at approximately 50 foot intervals. Water level measurements shall be obtained at the start of each day. Specific capacity tests shall be run on the wells.
- (g) At the completion of the drilling, well-bore geophysical logs shall be run on the new test production well and selected observation wells. In addition, the boreholes shall be made available upon request to the District and the USGS for the purpose of additional data collection.
- (h) Water level records shall be placed in four existing wells for monitoring aquifer conditions off the Phillips' tract, provided permission can be obtained from the owners. The locations of these wells are as indicated in Exhibit "A".
- (i) The water level recorder already installed in the existing test production well shall be maintained throughout the drilling and testing program.
- (j) Upon completion of the drilling and construction operations, water level recorders shall be installed in the new observation wells and shall be maintained through the pumping test.
- (k) A pumping test shall be conducted. Withdrawals from the new test production well during the period of the test shall be at a rate of 15 mgd or as close thereto as is reasonably possible. The discharge shall be controlled by means of a valve to maintain as constant a rate as possible throughout the duration of the test. The discharge water shall be conveyed away from the test site.
- (l) The test shall run for thirty (30) days or until the District agrees that pumping may be terminated.
- (m) The existing multiple zone observation well and three existing piezometers shall be monitored for water level changes throughout the test.
- (n) The time drawdown data obtained from the three new observation wells as a result of pumping the new production well shall be analyzed using the Theis curve (Walton Fig. 4.2), the Hantush leaky aquifer type curve (Walton Fig. 4.8), and the Jacob leaky aquifer type curve (Walton Fig. 4.9). The purpose of these analyses will be to derive coefficients of transmissivity and storage of the pumped zone and to determine the coefficient of leakage of the overlying unpumped confining unit.
2. Upon completion of the testing program and submission of the results to the District staff for its review and recommendation, a further hearing will be scheduled on this matter provided all information has been submitted to the District prior to April 7, 1978; otherwise a new application must be submitted.

5. The results of the Testing Program shall be completed and submitted to the District as soon thereafter as practical.

6. The results of the Testing Program shall be completed and submitted to the District as soon thereafter as practical.

DATED: May 5, 1976

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ATTEST:

Thomas M. Van Der Veer
THOMAS M. VAN DER VEER, SECRETARY

Derrill S. McAttee
DERRILL S. MCATEER, CHAIRMAN

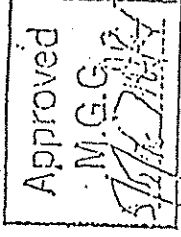
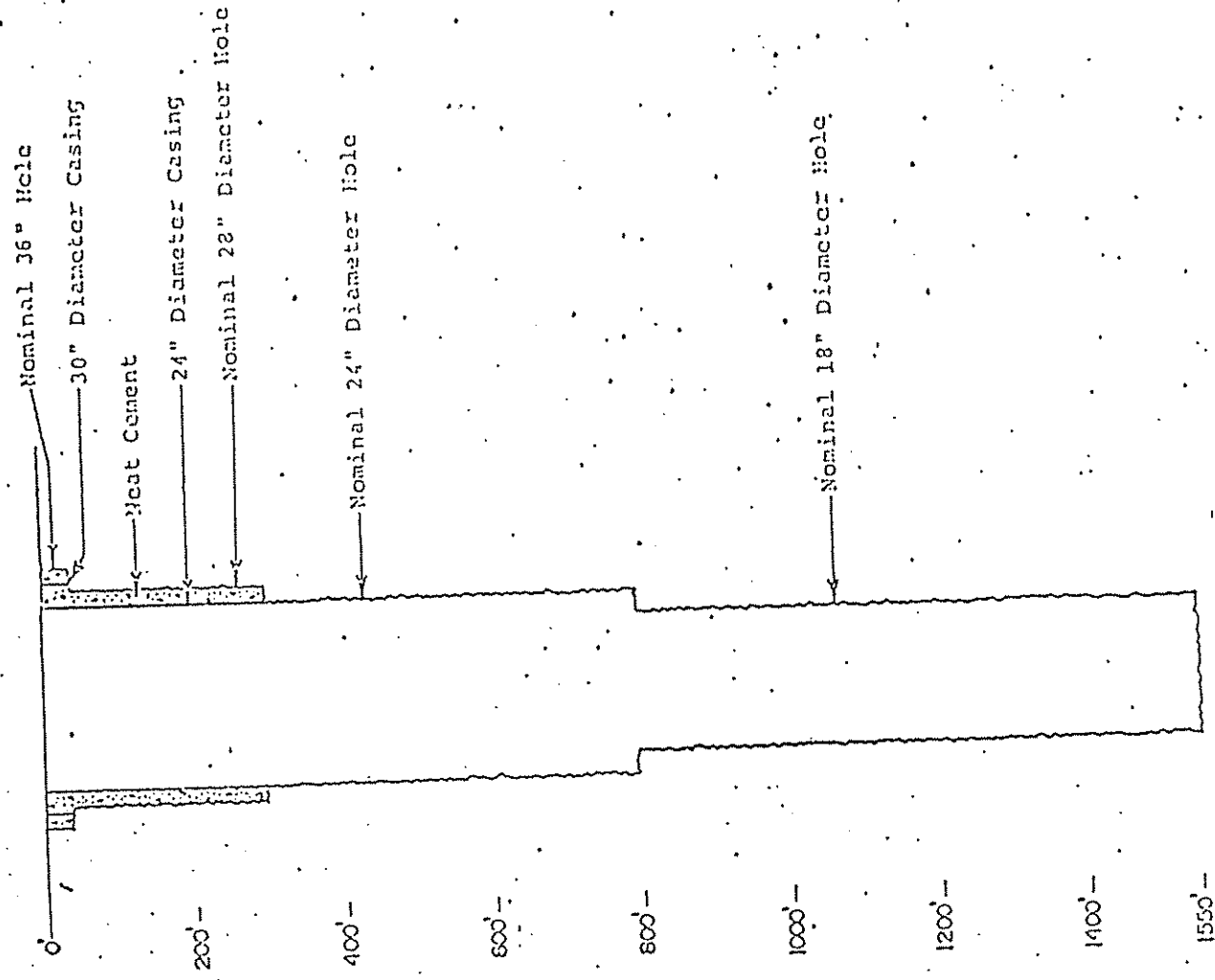


EXHIBIT 6. CONSTRUCTION DIAGRAM OF THE NEW TEST-PRODUCTION WELL



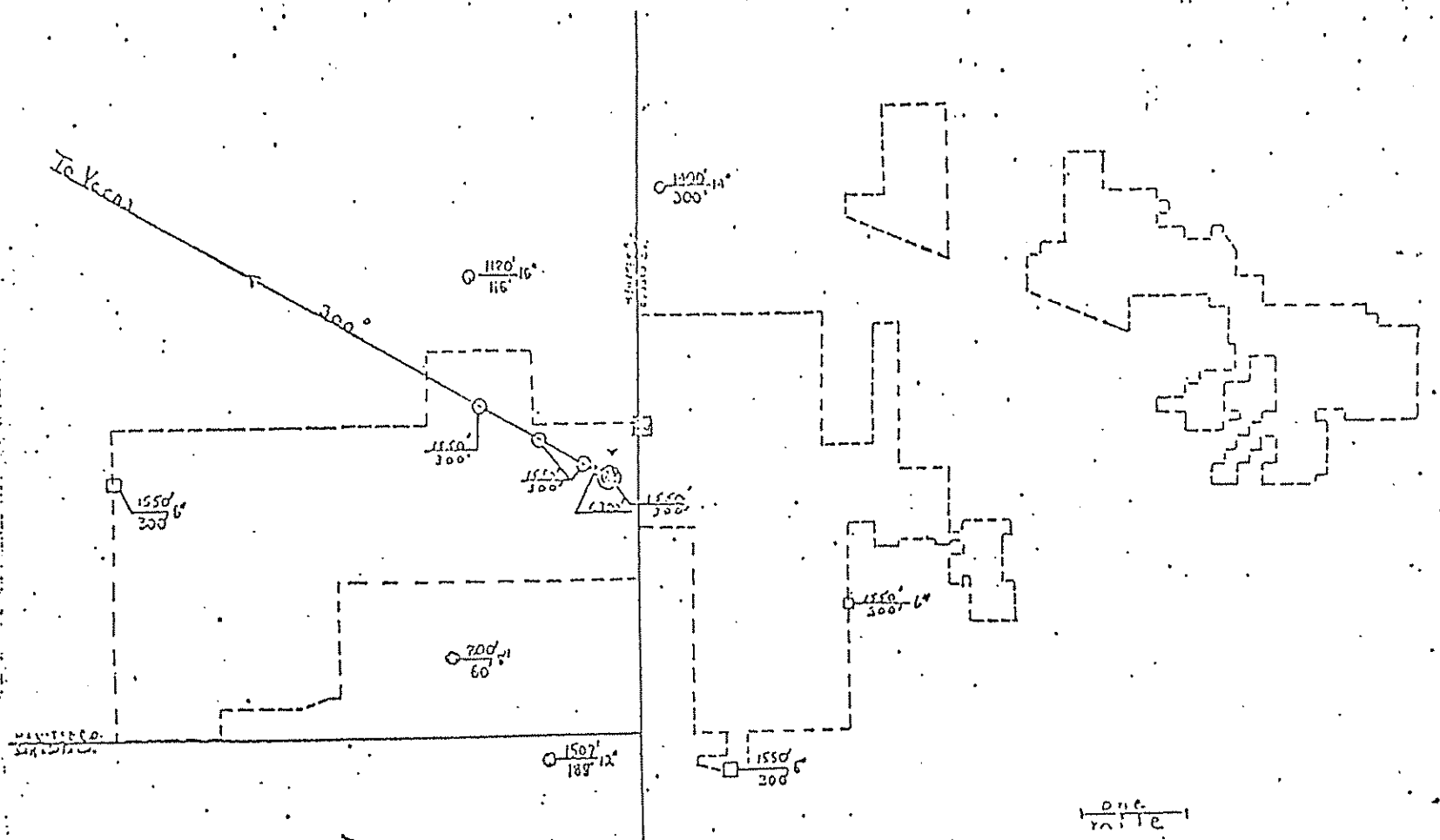
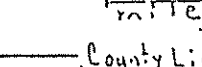


Exhibit A⁽⁷⁾

- 
-  County Line
 -  Property Line
 -  Mineralized Water Observation Well
 -  New Test Production Well
 -  New Observation Wells
 -  Existing Test Well and Observation Well

COUNTY OF MANATEE, STATE OF FLORIDA

IN RE: APPLICATION FOR DEVELOPMENT *
APPROVAL OF A DEVELOPMENT OF REGIONAL
IMPACT AND THE APPLICATION OR PETITION * D.R.I.-7
TO EXTEND OR REVISE AN EXISTING SPECIAL SE-842
EXCEPTION, TOGETHER WITH AN APPLICATION *
FOR APPROVAL OF A MINING MASTER PLAN BY
PHILLIPS PETROLEUM COMPANY. *

CERTIFICATE OF SERVICE

It is hereby certified that a certified copy of the Resolution Clarifying The Resolution Rendering A Development Order Dated July 7, 1976, adopted by the Board of County Commissioners of Manatee County, Florida, on September 14, 1978, in the above-styled proceedings has been served upon the Division of State Planning of the Florida Department of Administration, IBM Building, 660 Apalachee Parkway, Tallahassee, Florida 32304; upon the Tampa Bay Regional Planning Council, 3151 Third Avenue North, Suite 540, St. Petersburg, Florida 33713; upon the Southwest Florida Water Management District, Post Office Box 457, Brooksville, Florida 33512; and upon Jacob D. Varn of Carlton, Fields, Ward, Emanuel, Smith & Cutler, P.A., Post Office Box 3239, Tampa, Florida 33601, as the attorneys for Phillips Petroleum Company, all by mail, this the 22nd day of September, 1978.

It is hereby certified that a copy of said Resolution Clarifying The Resolution Rendering A Development Order has been served upon Henry Dean, Esquire, Division of State Planning of the Florida Department of Administration, IBM Building, 660 Apalachee Parkway, Tallahassee, Florida 32304; upon Roger S. Tucker, Esquire, 3151 Third Avenue North, Suite 508, St. Petersburg, Florida 33713; upon Richard E. Nelson of Nelson, Hesse, Cyril & Weber, 2070 Ringling Boulevard, Sarasota, Florida 33577, as the attorneys for the County of Sarasota, Florida; and upon William C. Grimes of Grimes, Goebe'l Parrv. Blue and Boylston, Post Office Box 1551 Bradenton, Florida 33506, as the attorneys for Phillips Petroleum Company, all by mail, this the 22nd day of September, 1978.

/s/ E. N. FAY, JR.

of Mann and Fay, Chartered
P. O. Box 959
Bradenton, Florida 33506
Attorneys for the County of
Manatee, Florida

file Phillips D.O.

COUNTY OF MANATEE, STATE OF FLORIDA

IN RE: APPLICATION FOR DEVELOPMENT APPROVAL *
OF A DEVELOPMENT OF REGIONAL IMPACT AND D.R.L.-7
THE APPLICATION OR PETITION TO EXTEND OR * SE-842
REVISE AN EXISTING SPECIAL EXCEPTION, TO-
GETHER WITH AN APPLICATION FOR APPROVAL *
OF A MINING MASTER PLAN BY PHILLIPS PETRO-
LEUM COMPANY. *

CERTIFICATE OF SERVICE

It is hereby certified that a certified copy of the Resolution Rendering A Development Order and a certified copy of the Resolution Extending Or Revising An Existing Special Exception And Approving Mining Master Plan, both of which were adopted by the Board of County Commissioners of Manatee County, Florida, on July 7, 1976, in the above-styled proceedings, have been served upon the Florida Division Of State Planning, IBM Building, Tallahassee, Florida 32304, upon the Tampa Bay Regional Planning Council, 3151 Third Avenue North, Suite 540, St. Petersburg, Florida 33713, upon the Southwest Florida Water Management District, Post Office Box 457, Brooksville, Florida 33512, upon William C. Grimes of Grimes, Goebel, Parry, Blue and Boylston, 1023 Manatee Avenue West, Bradenton, Florida 33505, as the attorney for Phillips Petroleum Company, and upon Richard E. Nelson of Nelson, Hesse, Cyril & Weber, 2070 Ringling Boulevard, Sarasota, Florida 33577, as the attorneys for the County of Sarasota, Florida, by mail, this the 8th day of July, 1976, and it is further certified that photocopies of each of said Resolution were served upon Archie M. Odom of Farr, Farr, Haymans, Moseley and Odom, Post Office Box 635, Punta Gorda, Florida 33950, and upon Jacob D. Varn of Carlton, Fields, Ward, Emmanuel, Smith and Cutler, Post Office Box 3239, Tampa, Florida 33601, as attorneys for Phillips Petroleum Company, by mail, this the 8th day of July, 1976.

/s/ E. N. FAY, JR.

of Mann, Fay and Price, Chartered
Post Office Box 959
Bradenton, Florida 33506
Attorneys for County of Manatee, Florida

D&J 7/13

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WHEREAS, since July 7, 1976, questions have arisen as to the meaning and legal effect of the resolution of July 7, 1976; and

WHEREAS, following the adoption of the resolution of July 7, 1976, the Division of State Planning (DSP) and the Tampa Bay Regional Planning Council (TBRPC) filed notices of appeal of the Manatee resolution with the Florida Land and Water Adjudicatory Commission and the County of Sarasota also filed motions to intervene as a party in the DSP and TBRPC appeal; and

WHEREAS, the Phillips' mining master plan which includes a conceptual reclamation plan was not submitted to Tampa Bay Regional Planning Council for review as part of the Phillips' application for development approval; and

WHEREAS, the Phillips' DRI application for development approval shall be revised and expanded to insure that the environmental and economic interests of the region are protected in accordance with the requirements of Chapter 380,

Florida Statutes, and other applicable law; and

WHEREAS, it is the intent of this resolution to provide a procedure for further review and analysis of the Phillips' application for development approval, including the mining master plan and conceptual reclamation plan, under Sections 380.06 and 380.07, Florida Statutes; to require the issuance of further development orders; and to recognize the participation of the Division of State Planning, the Tampa Bay Regional Planning Council and Sarasota County in said review; and

WHEREAS, the parties to the appeal to the Florida Land and Water Adjudicatory Commission have represented to Manatee County that upon the adoption of this development order the parties will seek the dismissal by appropriate order of the pending appeal; and

WHEREAS, the entry of this development order shall not be construed as requiring the approval of any future phosphate mining development orders for other areas in Manatee County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

1. Prior to undertaking development, Phillips shall:
 - (a) Revise the mining master plan and conceptual reclamation plan filed with Manatee County to comply with the requirements and criteria for the preservation and restoration of wetland areas as set forth in Exhibit "A", attached hereto and made a part hereof.
 - (b) Perform hydrologic studies to establish ground and surface water baseline data for determining what effect the proposed mining operation and the operation of the mining project will have and has upon the water quantity conditions of surrounding lands and the hydrology of the region.

The studies shall include:

- 1) Those required by the SWFWMD in its Order relating to consumptive use, dated May 5, 1976, a copy of which is attached hereto as Exhibit "E" and made a part hereof.
- 2) Determination of weekly stream flow rates for Bud Slough, Wildcat Slough, Big Slough, the central swamp area, Horse Creek, Brandy Branch, Buzzard Roost Branch, and Buzzard Roost Tributary at the approximate points designated on Exhibit "B". These determinations must be made prior to the commencement of mining operations in order to make the necessary determinations for release and diversion of water in these watercourses.
- 3) Determination of the methods by which the watercourse flows will be maintained during the mining operation, including a statement of criteria by which the quality of flow will be maintained at a rate comparable to that normally and naturally flowing in the watercourse. When watercourses are to be diverted or dammed by the developer, the plans for such works are to be submitted as a part of the application for annual operating permit.
- 4) (c) Revise the master mining plan to provide for positive protection against dam or dike failure with provisions for secondary dams or alternative solutions in accordance with acceptable engineering techniques and procedures consistent with currently acceptable standards for the protection of the environment.
- 5) (d) Revise the master mining plan and conceptual reclamation plan to include sections dealing with the potential radiation hazards associated with phosphate mining. Said sections shall clearly set forth in detail the existing background levels of radiation on the property including, but not limited to, background soil and atmospheric levels of Radium-226

and Radon-222. The master mining plan and conceptual reclamation plan shall provide for a proposed methodology for preventing any increase in radiation exposure as a result of development activities, if practicable, but in no event exceeding radiation levels which would endanger public health, safety or welfare. The conceptual reclamation plan shall also provide for a system of monitoring the percolation of water through reclaimed lands to determine the leaching characteristics of radioactive elements in such reclaimed lands.

(e) Revise the master mining plan to include the specific location of Phillips' phosphate beneficiation plant and information describing the real and personal taxable property to be located in the County.

(f) Perform a study defining the economic impact of the Phillips' development on the region and the level of local government services required as a result of the development.

(g) Record, for the preserved areas shown on Exhibit "B", perpetual deed restrictions and covenants to run with the land, in the public records of Manatee County, Florida, allowing only such development as does not impair the wetland ecological functions, including flood water retention, maintenance of seasonal flows in rivers and creeks, filtration of suspended solids, assimilation of dissolved nutrients and wildlife habitat. Said restrictions and covenants shall be enforceable only by Manatee County, DeSoto County, Sarasota County and the Division of State Planning.

2. Phillips shall submit the items specified in paragraph 1 hereof to the DSP, TBRPC, Central Florida Regional Planning Council (CFRPC), and Sarasota County at the same time they are submitted to Manatee County and other governmental agencies. In no event shall said items be provided to the

DSP, TBRPC, CFRPC, and Sarasota County less than sixty (60) days prior to any hearing to be conducted by Manatee County in accordance with the provisions of this order.

3. The Tampa Bay Regional Planning Council shall have the right to make recommendations to Manatee County concerning the items specified in paragraph 1 pursuant to the provisions of Sections 380.06(7) and (8), Florida Statutes.

4. Prior to granting any development orders to Phillips, Manatee County shall hold a hearing in accordance with Section 380.06, Florida Statutes, to consider the revised mining master plan, reclamation plan, and all other information submitted in accordance with paragraph 1 of this order to determine the impacts of the Phillips' development pursuant to the criteria of Chapter 380, Florida Statutes, in light of said information and shall thereafter issue a development order pursuant to the requirements of Chapter 380, Florida Statutes, and other applicable laws, with appropriate findings of facts, which shall approve, deny, or approve with conditions the Phillips' development.

5. DSP, TBRPC and Sarasota County shall have the right to participate as a full party in the hearing before Manatee County provided for in paragraph 4 hereof and they shall have the right to seek review of said proceedings as provided by law.

6. No hearing shall be held by Manatee County, pursuant to paragraph 4 hereof, until all items required by paragraph 1 hereof have been submitted by Phillips. It is the express intent of this paragraph to avoid a mutiplicity of expensive and time-consuming hearings before the Manatee County Commission.

7. Phillips shall establish a formal emergency procedure to immediately notify the City of North Port in the event of a dam or dike break on Phillips' property that

could affect the City's water supply. This requirement shall not affect the requirement that Phillips shall provide for positive protection against dam or dike failure.

8. Upon completion of reclamation of any mining area, and prior to acceptance of such reclaimed areas by Manatee County, Phillips shall prepare and file with Manatee County and all parties named in paragraph 2 hereof a detailed radiological analysis showing radiation levels in the re-claimed areas.

9. It is acknowledged by Phillips Petroleum Company that AMAX Chemical Corporation has entered an option agreement for the acquisition of the Phillips' property. Either Phillips or AMAX shall operate as the "Mining Company", as described in the application for development approval. Accordingly, Phillips or AMAX shall be entitled to request all necessary and required permits subject to and consistent with the terms and conditions of this order and resolution.

10. The County of Manatee shall receive one-half the tax benefits from all the development's real and personal taxable property, including all improvements, fixtures and equipment in order to offset or mitigate the economic impact of this proposed development upon Manatee County.

11. Phillips shall, prior to development, in coordination with Manatee County and the Florida Division of Archives, History and Records Management undertake a complete archaeological and historical survey of the Phillips' tract under the supervision of a qualified archaeologist. Any site of archaeological or historical significance discovered on the tract shall be preserved or excavated at the developer's expense under a qualified archaeologist's supervision. The final disposition of any discovered site of archaeological or historical significance shall be carried out to the mutual satisfaction of the developer and the Florida Division of Archives, History and Records Management.

12. A copy of the written annual report as required by the Manatee County mining ordinance certifying that the subject project is being developed and/operated according to the conditions set forth in the approved master plan and operating permit shall be transmitted by Phillips to the TBRPC, the DSP, and Sarasota County, and any application to amend the mining master plan shall be transmitted in the same manner.

13. This development order incorporates by reference the representations, terms, and conditions set forth in the application for development approval, the mining master plan, and the development order of July 7, 1976. The terms and conditions set forth in this development order shall supersede such other inconsistent representations, terms and conditions. A substantial deviation from the terms and conditions of this development order shall be deemed to be a new development of regional impact and shall require the filing, review, and approval of a separate application for development approval pursuant to Section 380.06, Florida Statutes, and other applicable laws of the State of Florida.

14. The County Attorney is hereby authorized and directed to cause a certified copy hereof to be served upon the Division of State Planning, the Tampa Bay Regional Planning Council, the Southwest Florida Water Management District, and upon the attorneys of record in these proceedings.

ADOPTED in regular session with a quorum present and voting, this 14th day of September, 1978.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By T. J. Phillips
Chairman

ATTEST:

Clerk of the Circuit Court

By [Signature]
~~Deputy~~ Clerk

EXHIBIT A

PRINCIPLES AND CRITERIA FOR WETLANDS RECLAMATION

1. The wetlands designated for preservation, as shown in Exhibit B, shall not be disturbed or encroached upon in any manner, except as provided herein. Because of the configuration of Phillips' property and the location, size and shape of the preservation areas, there are four locations, as shown in Exhibit B and herein referred to as "Crossings", where access or movement across preservation areas may be necessary. The locations shown on Exhibit B are approximate locations and shall be finalized as to location as part of the revised master mining plan. Also, the locations shall be staked in the field prior to any encroachment of the preservation area. In addition, it is agreed as follows:

- a) Should an alternate site be made available for crossing Horse Creek in the areas north of State Road 70, Phillips shall agree to relocate and use the alternate native site, provided the alternative site is reasonably close and accessible from the Phillips' property.
- b) The width of the Horse Creek Crossing north of State Road 70 shall be no more than 175 feet. The width of the Horse Creek Crossing south of State Road 70 shall be no more than 175 feet and there shall be no permanent access road across Horse Creek at this Crossing. The width of the Buzzard Roost Tributary Crossings shall be no more than 250 feet. The Crossings at the stream or watercourse shall be perpendicular to the flow of the stream. In addition, prior to any construction involving the Crossings

over Horse Creek the plans for these Crossings shall be submitted to DSP for approval to insure that the plans are consistent with the terms and conditions hereof.

c) Phillips shall cooperate in seeking alternative sites to crossing the preservation areas.

d) Phillips shall make available up to \$100,000 for the acquisition of an alternative site to cross Horse Creek north of State Road 70. Provided, however, Phillips shall not have to make these funds available until such time that Phillips has the necessary permits and approvals to begin mining.

e) Phillips shall maintain a vegetative cover on the approaches to the crossing sites to minimize erosion and prevent sedimentation.

f) Access roads within the crossings shall be no more than 15' wide and use of these access roads shall be limited.

g) After particular uses, such as dragline crossings, pipeline crossings and access, have terminated, the areas shall be restored to a condition equal to or, at Phillips' election, better than the condition that existed prior to mining.

h) To minimize the impact on the wetland areas and to reduce the number of crossings of the wetland areas, Phillips agrees to make available these Crossings, so that other mining companies may utilize the same Crossings. In making these sites available, Phillips shall have the right to

provide the sites, subject to appropriate terms and conditions, including the right to continue using the site and to be held harmless for any damage resulting from other users' activities within the sites. However, this provision is not to be construed to mean that Phillips has any obligation to provide access through any area other than through the preservation areas. Additionally, should other mining companies utilize any of the Crossings, Phillips shall incorporate in the documents permitting these companies to use the Crossings the same terms and conditions provided herein for protecting and preserving the preservation areas.

i) In designing these Crossings and the facilities to be located within these Crossings, extraordinary measures shall be taken to minimize adverse environmental impacts during construction, operations and maintenance. Such measures may include, but not be limited to;

- (1) elevated pipelines;
- (2) maximizing the distance between the stream and the structures supporting the overhead powerlines;
- (3) use of high-strength or double walled pipelines;
- (4) control or regulate runoff within the crossing, so as to prevent the degradation of water quality;
- (5) transmission of recirculated water in high-strength or double walled pipelines within the preservation area; and
- (6) disruption of the natural drainage within the crossings shall be minimized.

2. The wetlands areas designated for restoration, as shown in Exhibit B, shall be reclaimed after mining as wetland areas in a manner which will allow the reestablishment

of wetland ecological functions, including flood water retention, maintenance of seasonal flows in rivers and creeks, filtration of suspended solids, assimilation of dissolved nutrients and wildlife habitat. Except for wetland areas in the Big Slough, all wetlands shall be restored to a condition essentially equal to or, at Phillips' election, better than the wetland condition that existed prior to mining. As to the wetland areas in Big Slough, because extensive drainage within this area has led to a lowered water table, and consequently, resulted in some wetlands making a transition to an upland community, Phillips shall, through its restoration plan for wetlands in Big Slough coupled with a sound water management plan, restore those ecological functions set out above within these wetlands to a condition better than the conditions that existed prior to mining. All reclamation lakes, except for lakes described in paragraph 3 hereof, shall be designed consistent with the concepts shown in Exhibit C. All stream and creek reclamation shall be designed consistent with the concepts shown in Exhibit D.

In connection with determining the existing conditions of these wetlands, Phillips shall perform transects at those approximate locations noted on Exhibit B using acceptable biological techniques. The information to be gathered in these transects shall include relative topographic contours, soil profiles and conditions and vegetative communities.

Reclamation of restoration areas shall be considered complete when all natural vegetation associations in such area are firmly established.

3. The lake designated as "A" in the Big Slough drainage system in Exhibit B and the lake designated as "B" immediately downstream from the preserved central swamp area in Exhibit B shall be shallow lakes with 50% marsh littoral zones. Side slopes shall be no steeper than 12:1 and maximum depths shall not exceed six (6) feet.

4. For the purpose of preventing dewatering and other hydrologic damage to wetland preservation areas, only one side of lands adjacent to a designated wetland preservation area shall be mined at a time. The mined side shall be restored to the designated reclamation elevation prior to the commencement of mining on the opposite side.
5. The lake and marsh system, in the western portion of the site and designated as area "C" on Exhibit B, shall be hydrologically designed to have a set season overland flow through a marsh system into a restored watercourse or wetland preservation area.
6. In order to maintain the preserved wetland areas in their natural state at all times during the mining and reclamation periods, Phillips shall provide the said wetland areas with surface water essentially equal in quantity and quality to the surface water runoff that normally and naturally flows in these wetland areas.
7. With the exception of introduced grasses for the establishment of improved pasture, only native plant species shall be utilized in the reclamation and restoration plan. Wherever possible, on-site vegetation, such as cabbage palm, should be moved from mining areas to reclamation areas. Native freshwater marsh plants, within areas to be mined, should be utilized as starter and seed stock for lake and marsh reclamation areas. Best management practices and techniques for revegetation, reforestation, erosion control, etc., shall be used in the reclamation of all land forms and natural vegetation associations.
8. The upper two feet of top soil shall be removed before mining and utilized as soon as possible for top dressing on reclamation areas.

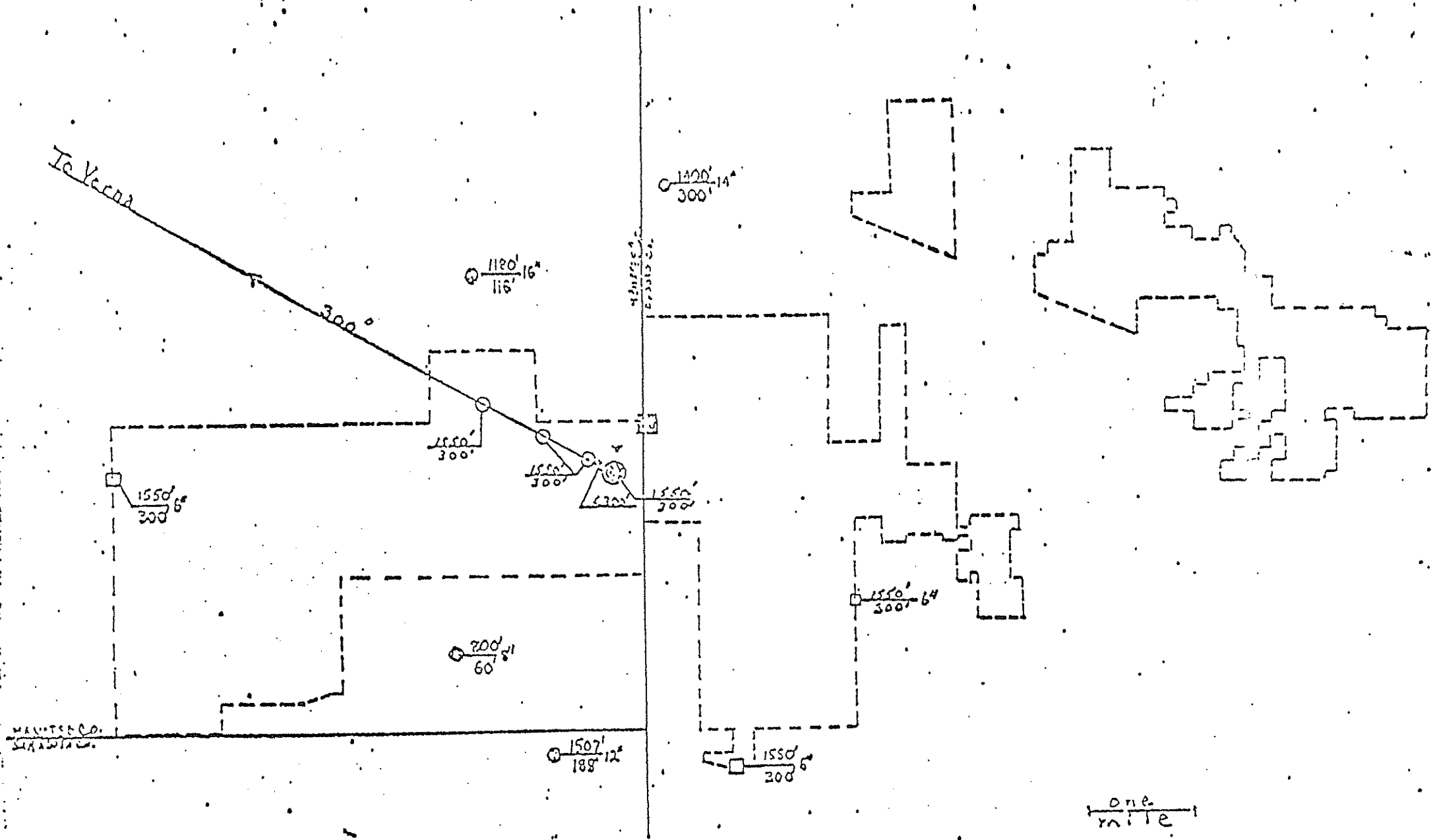
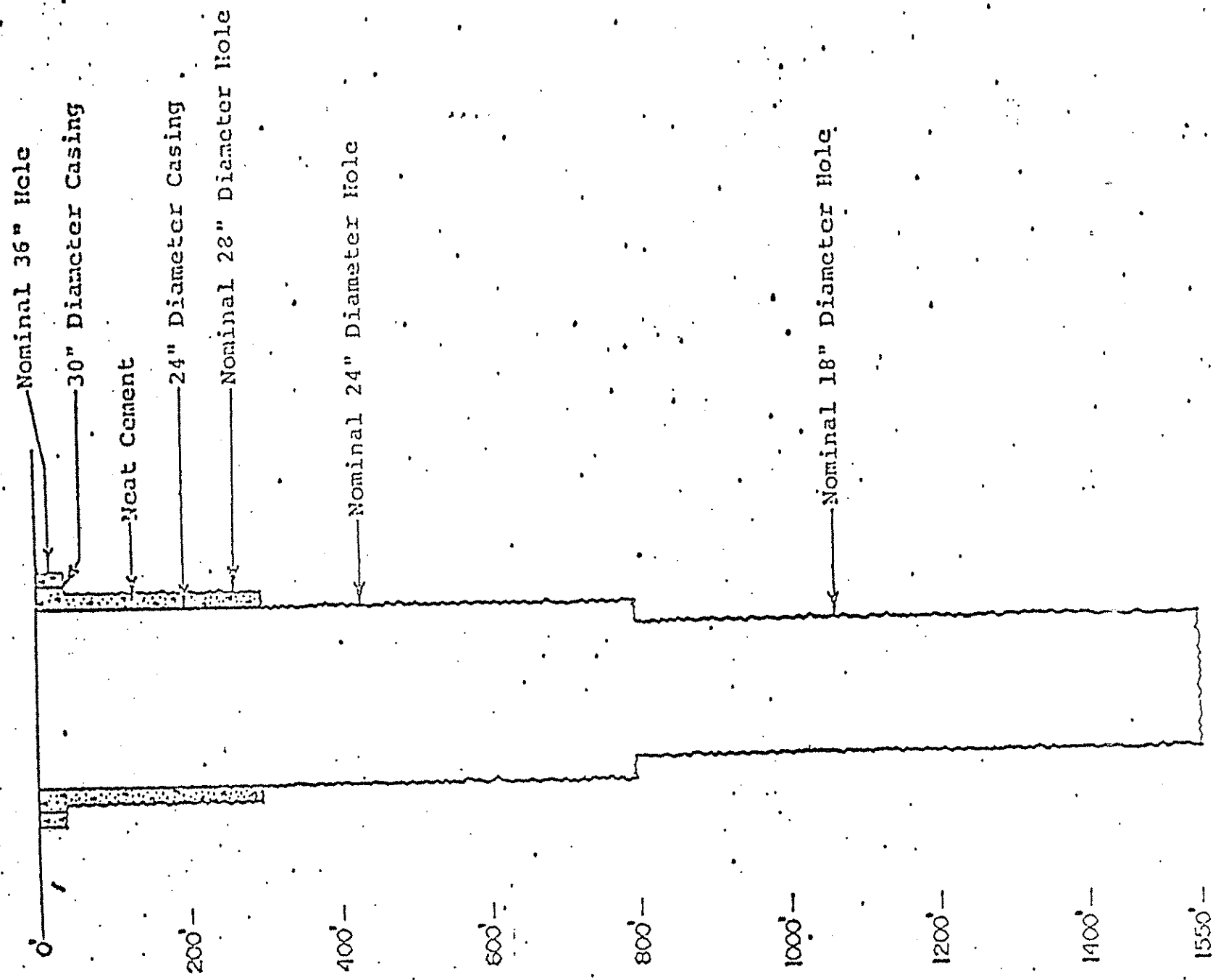
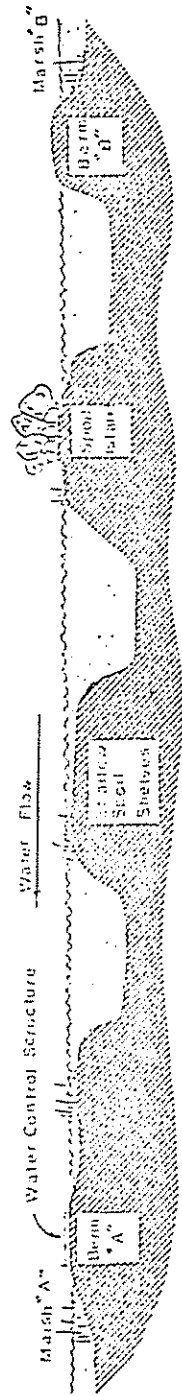


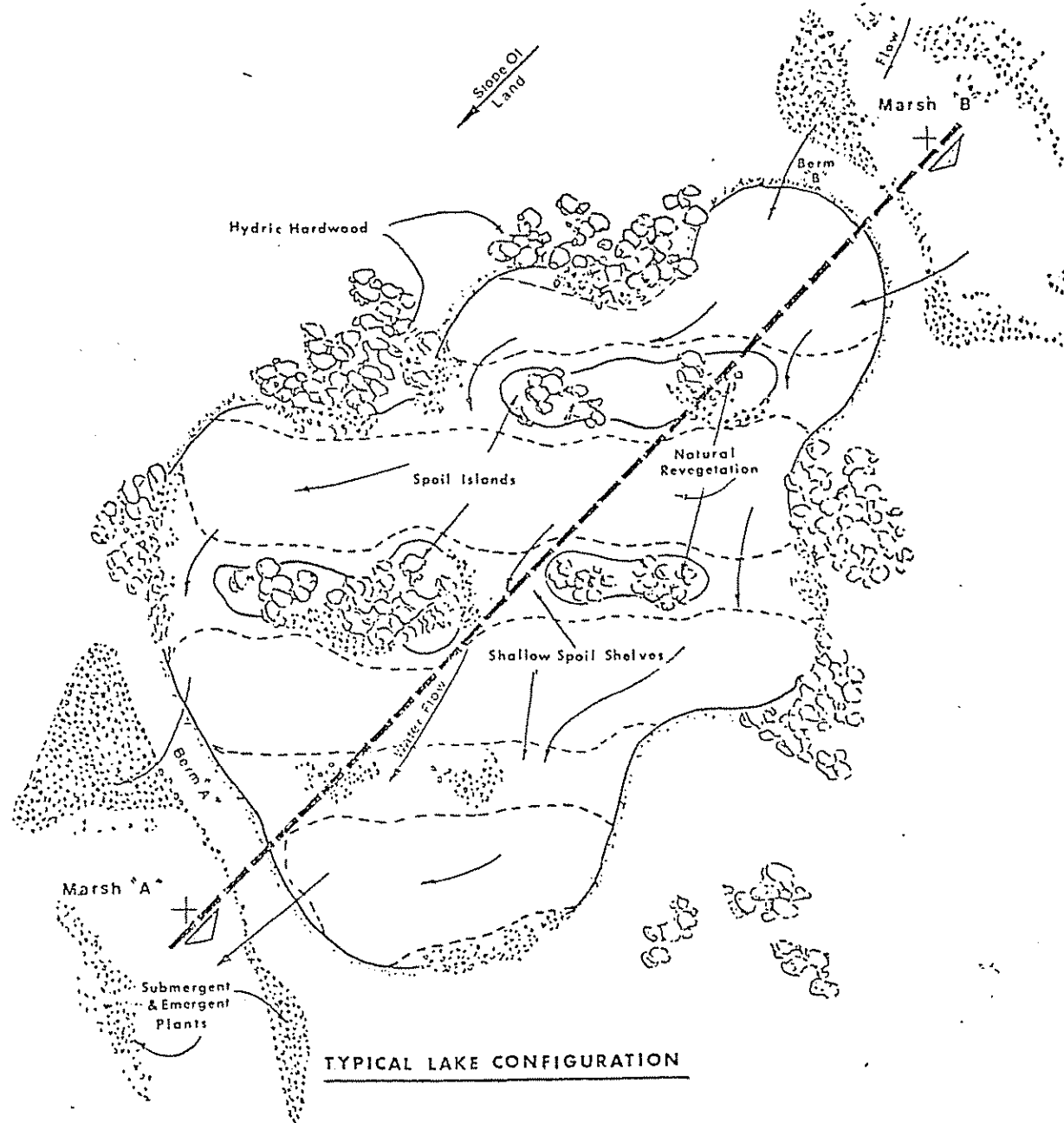
Exhibit A (7)

EXHIBIT B. CONSTRUCTION DIAGRAM OF THE NEW TEST-PRODUCTION WELL





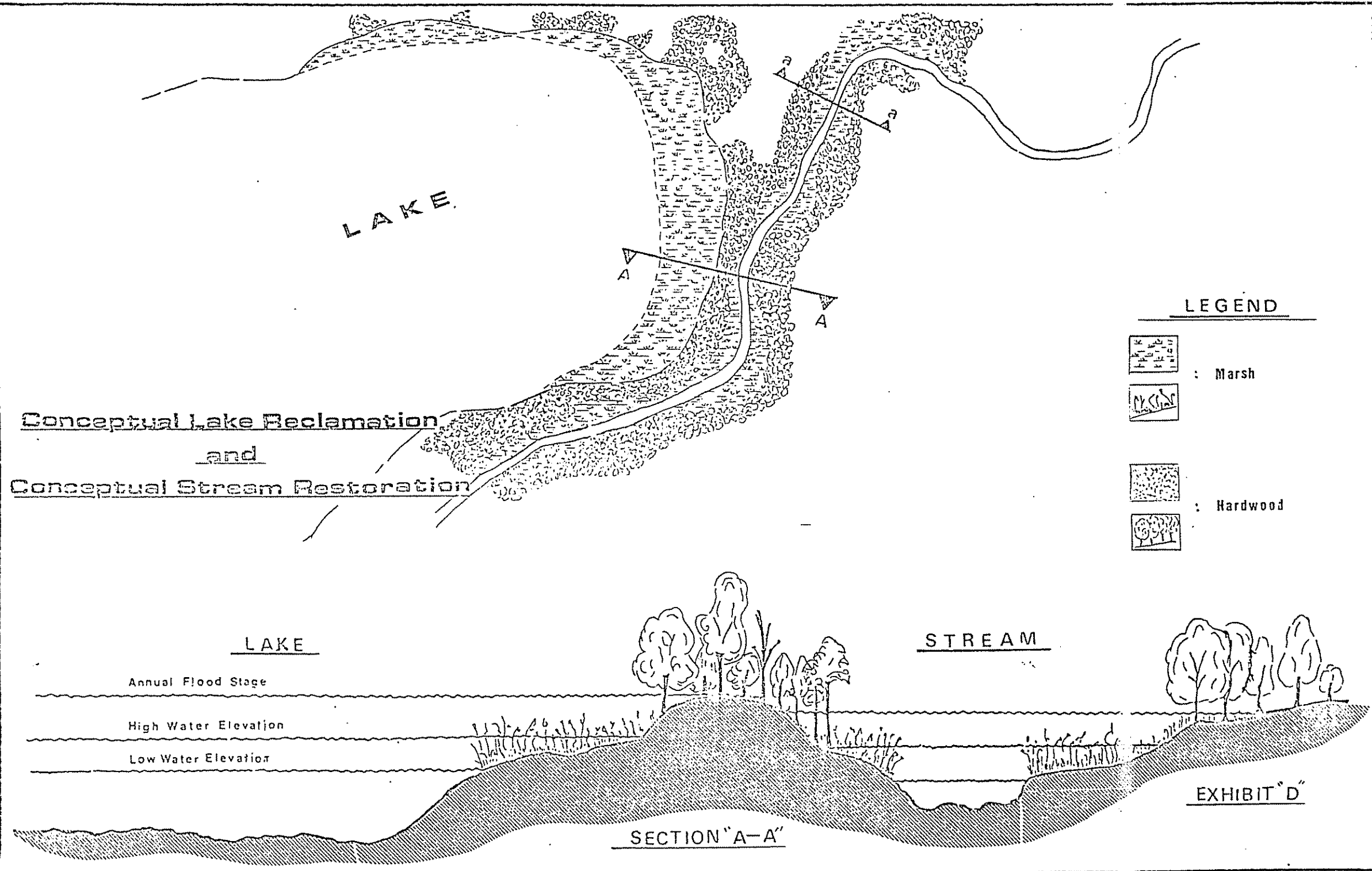
TYPICAL LAKE SECTION



TYPICAL LAKE CONFIGURATION

Conceptual Wetland Reclamation

EXHIBIT C



IN RE:

Application for Consumptive Use Permit	)	Application No. 7500103
by Phillips Petroleum Company to	)	
Southwest Florida Water Management	)	
District	)	

ORDER REQUIRING HYDROLOGIC TESTING PROGRAM

After due notice a Public Hearing was held before the Governing Board of the District on Tuesday, January 13, 1976 at 9:30 a.m. and Wednesday, February 18, 1976, March 10, 1976 and April 7, 1976 in the Board Room, District Headquarters, Southwest Florida Water Management District, U. S. 41 South, Brooksville, Hernando County, Florida.

ISSUE

Whether a Consumptive Use Permit for quantities of water as applied for should be issued.

FINDINGS OF FACT

On July 1, 1975 Phillips Petroleum Company filed a Consumptive Use Application with the Southwest Florida Water Management District for the withdrawal of 9 million gallons per day (mgd, maximum daily) of water from the Floridan Aquifer via three wells in DeSoto County pursuant to the District's Rules and Regulations, Chapter 16J-2, "Consumptive Use of Water."

Phillips owns 8,700 acres of land in DeSoto County within the Southwest Florida Water Management District, and 6,500 acres of land in Manatee County in the Ridge and Lower Gulf Coast Water Management District. Phillips proposes to mine and beneficiate phosphate on the 15,200 acres and will use the 9 mgd daily withdrawal applied for as a portion of the 15 mgd required to operate the amine floatation portion of the operation. This water, subsequent to its use in the amine float, will enter the plants circulation system for reuse. During periods of excessive dryness, it may be necessary to divert a maximum of 15 mgd directly into the circulation system rather than into the amine float.

The hydrologic evaluation of this application has been based upon withdrawals of 15 mgd from wells both within and outside of the District boundaries. An evaluation of the pump test data submitted by Phillips indicates that acceptable

values for transmissivity and storage can be derived. However, due to the interference of regional water level fluctuations, a value for leakage could not be accurately derived. Without an acceptable leakage value, the staff could not accurately predict the effect of Phillips' withdrawals upon the hydrologic system. In addition, possible anisotropy within the system was not addressed during initial testing and indications are that extreme anisotropy may exist. In evaluating the application, a range of leakage values, 10^{-3} - 10^{-5} , were investigated as well as the possibility of anisotropy. Based on the available information, an accurate prediction could not be made on:

Whether the proposed activity will significantly induce salt-water intrusion, and how much and where the potentiometric surface will be lowered.

Additional tests have been recommended to be performed by the applicant and will provide more reliable data for the District staff to evaluate the application.

CONCLUSIONS OF LAW

The parties, while properly proceeding under Chapter 373, F.S., and the Rules promulgated pursuant thereto, have not presented sufficient and documentary evidence for the Governing Board of the Southwest Florida Water Management District to adequately evaluate this application, therefore additional testing must be performed in order to determine the effects of the proposed withdrawals on the natural resources of the area.

ORDER

1. Prior to further consideration, Phillips shall conduct the following hydrologic program:

- (a) The new drilling and testing program shall include the construction of a new test production well to be located in the eastern half of Section 24, Township 37 South, Range 22 East in Manatee County as indicated on Exhibit "A". The well shall be drilled to a total finished depth of approximately 1,550 feet with casing set to approximately 300 feet. The well shall be constructed as per the diagram in Exhibit "B" which shall be subject to reasonable modification depending on field conditions encountered.
- (b) In addition, three observation wells shall be drilled on a line approximately 300 feet from the new test production well at a distance of approximately 1,000 feet, 2,500 feet and 4,000 feet as indicated on Exhibit "A". The wells shall be designed to monitor water level changes in the production zone and shall be construed to a total finished depth of approximately 1,550 feet with casing set at approximately 300 feet.
- (c) An observation well open to the overlying unpumped deposits shall also be installed at a distance of less than 200 feet from the pumped well as indicated on Exhibit "A". The water level changes in this well shall also be measured. The vertical permeability of confining unit materials in the vicinity of this well shall be determined using the ratio method of analysis (Neuman, Witherspoon; Water Resources Research 1972, P.1284).

- (d) Three long-term observation wells shall be installed on the property boundary in Section 20, Township 37 South, Range 22 East, Section 6, Township 38 South, Range 23 East, and Section 29, Township 37 South, Range 23 East as indicated on Exhibit "A". These wells shall be designed to monitor water level changes in the production zone and shall be constructed to a total finished depth of approximately 1,550 feet with approximately 300 feet of casing. The diameter shall be suitable for accommodating stage recording devices.
- (e) A mineralized water monitor well shall be designed and constructed at the location indicated on Exhibit "A", or at such other locations, as is mutually agreeable, so that changes in elevation of the fresh/mineralized water interface can be monitored during pumping.
- (f) The wells shall be drilled by a combination of the mud-rotary and reverse air circulation methods. During the drilling, formation samples shall be collected from all the wells at five-foot intervals and a description of the materials penetrated will be prepared. Water samples shall be collected from the new test production well below the cased zone at approximately 50 foot intervals. Water level measurements shall be obtained at the start of each day. Specific capacity tests shall be run on the wells.
- (g) At the completion of the drilling, well-bore geophysical logs shall be run on the new test production well and selected observation wells. In addition, the boreholes shall be made available upon request to the District and the USGS for the purpose of additional data collection.
- (h) Water level records shall be placed in four existing wells for monitoring aquifer conditions off the Phillips' tract, provided permission can be obtained from the owners. The locations of these wells are as indicated in Exhibit "A".
- (i) The water level recorder already installed in the existing test production well shall be maintained throughout the drilling and testing program.
- (j) Upon completion of the drilling and construction operations, water level recorders shall be installed in the new observation wells and shall be maintained through the pumping test.
- (k) A pumping test shall be conducted. Withdrawals from the new test production well during the period of the test shall be at a rate of 15 mgd or as close thereto as is reasonably possible. The discharge shall be controlled by means of a valve to maintain as constant a rate as possible throughout the duration of the test. The discharge water shall be conveyed away from the test site.
- (l) The test shall run for thirty (30) days or until the District agrees that pumping may be terminated.
- (m) The existing multiple zone observation well and three existing piezometers shall be monitored for water level changes throughout the test.
- (n) The time drawdown data obtained from the three new observation wells as a result of pumping the new production well shall be analyzed using the Theis curve (Malton Fig. 4.2), the Hantush leaky aquifer type curve (Malton Fig. 4.8), and the Jacob leaky aquifer type curve (Malton Fig. 4.9). The purpose of these analyses will be to derive coefficients of transmissivity and storage of the pumped zone and to determine the coefficient of leakage of the overlying unpumped confining unit.
2. Upon completion of the testing program and submission of the results to the District staff for its review and recommendation, a further hearing will be scheduled on this matter provided all information has been submitted to the District prior to April 7, 1978; otherwise a new application must be submitted.

map test during September and October 1976.

1. The results of the Test , Program shall be completed and submitted to the District as soon thereafter as practical.

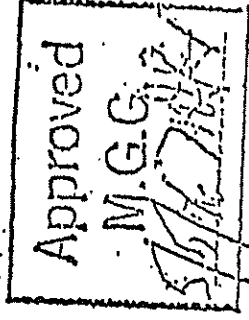
DATED: May 5, 1976

SOUTHWEST FLORIDA WATER MANAGEMENT
DISTRICT

WITNESSES:

Derrill S. McAttee
DERRILL S. MCATEER, CHAIRMAN

Thomas M. Van Der Veer
THOMAS M. VAN DER VEER, SECRETARY



Florida Department of Health and Rehabilitative Services and to the Manatee County Health Department.

(6) All roads, streets, bridges and other access ways located upon the site shall be acquired, constructed and maintained by Phillips without any cost or obligation of the County of Manatee. In the event any State or County roads and bridges have to be upgraded, enlarged or improved because of the truck and other motor vehicle traffic of Phillips, said roads and bridges shall be upgraded, enlarged or improved by Phillips at no cost or expense to Manatee County under the supervision and control of the Manatee County Highway Department and wherever feasible, pursuant to the standards set by the Florida Department of Transportation. In the event additional right-of-way is required in connection with the upgrading, enlarging or improvement of said roads and bridges, all acquisition costs for said additional right-of-way shall be the sole obligation of Phillips.

(7) Prior to the construction of the proposed phosphate processing plant upon the site and prior to commencing mining operations upon the site, Phillips shall obtain and cause to be delivered to the County of Manatee written assurances from a railroad company or companies that sufficient railroad facilities will be made available for the bulk handling and shipping of phosphate rock from the site to other destinations.

(8) Phillips shall cause a comprehensive cultural resources study to be made in close coordination with the Florida Division of Archives, History and Records Management prior to commencing any construction upon the site and the results of this survey shall be furnished to the Florida Division of Archives, History and Records Management and to the County of Manatee.

(9) An amount equal to at least two-thirds of all of the real and personal taxable property constituting any portion of the phosphate processing plant to be located upon the site, including all improvements, fixtures and equipment in connection therewith, shall be located in Manatee County so that the County of Manatee obtains the tax benefits therefrom to offset or mitigate the economic impact of the proposed development upon Manatee County.

(10) Phillips shall obtain all of the necessary construction, consumptive use and operating permits and approvals required by, and shall fully comply with all of the

provisions of, applicable laws, ordinances, rules, regulations or requirements of any federal, state, regional or county governmental authority in connection with this development and the proposed phosphate mining project upon this site.

B. In the event it is determined that there is any significant or substantial deviation from the conditions, restrictions and limitations of this Development Order, the matters and things described in the Application For Development Approval Of Development Of Regional Impact by Phillips on file in these proceedings and the matters and things set forth in the Mining Master Plan by Phillips on file in these proceedings, this Board of County Commissioners shall have the right upon due notice to Phillips and public hearing thereon to terminate and set aside this Development Order or to take such other action as may be appropriate under the particular circumstances.

C. Copies of all plans, analyses, studies, reports, agreements and other papers required to be furnished by Phillips pursuant to the provisions of this Development Order shall be furnished to the Tampa Bay Regional Planning Council at the same time said papers are required to be furnished to the County of Manatee or any other governmental authority. The Tampa Bay Regional Planning Council may thereafter make such comments or recommendations on said papers to the County of Manatee as it may deem appropriate.

D. The County Attorney is hereby authorized and directed to cause a certified copy hereof to be served upon the Florida Division of State Planning, the Tampa Bay Regional Planning Council, the Southwest Florida Water Management District and upon the attorneys of record in these proceedings for Phillips and for Sarasota County.

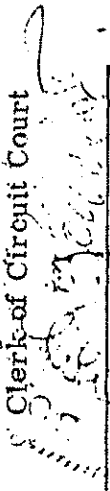
ADOPTED in regular session with a quorum present and voting, this the 7th day of July, 1976.

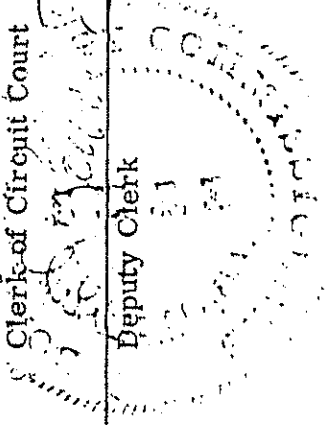
BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: 
Chairman

ATTEST: M. T. McINNIS

Clerk of Circuit Court

By: 
Deputy Clerk



STATE OF FLORIDA

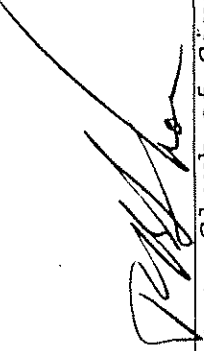
COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the
County of Manatee, State of Florida, do hereby certify that the
foregoing is a true copy of a RESOLUTION adopted by the Board
of County Commissioners of said County in session on the 14th
day of September 1978

SUBJECT:

RESOLUTION CLARIFYING THE RESOLUTION
RENDERING A DEVELOPMENT ORDER
DATED JULY 7, 1976 (DRI 7, SE-842)

WITNESS My Hand and Official Seal this 19th day of
September 1978 in Bradenton, Florida.


R. B. Shore, Clerk of Circuit Court
Manatee County, Florida

STATE OF FLORIDA

COUNTY OF MANATEE

I, M. T. McInnis, Clerk of Circuit Court, Ex Officio Clerk,
Board of County Commissioners of Manatee County, Florida, do
hereby certify that the foregoing is a true copy of

RESOLUTION RENDERING A DEVELOPMENT ORDER: D.R.I. -7
PHILLIPS PETROLEUM COMPANY SE-842

adopted by said Board in open Session on the 7th day of
July 1976

WITNESS my hand and official seal this 7th day of
July 1976

M. T. McINNIS, Clerk of Circuit
Court, Ex Officio Clerk, Board of
County Commissioners, Manatee
County, Florida

By *M. T. McInnis*

Deputy Clerk

COUNTY OF MANATEE, STATE OF FLORIDA

IN RE: APPLICATION FOR DEVELOPMENT APPROVAL *
OF A DEVELOPMENT OF REGIONAL IMPACT AND D.R.I. -7
THE APPLICATION OR PETITION TO EXTEND OR * SE-842
REVISE AN EXISTING SPECIAL EXCEPTION, TO-
GETHER WITH AN APPLICATION FOR APPROVAL OF *
A MINING MASTER PLAN BY PHILLIPS PETROLEUM *
COMPANY. *

RESOLUTION EXTENDING OR REVISING AN EXISTING SPECIAL
EXCEPTION AND APPROVING MINING MASTER PLAN

WHEREAS, Phillips Petroleum Company, hereinafter referred to as "Phillips" has filed with the County of Manatee, a political subdivision of the State of Florida, an Application For Development Approval Of Development Of Regional Impact numbered as D.R.I. -7, an Application/Petition to extend or revise an existing special exception numbered as SE-842, together with a Mining Master Plan, and

WHEREAS, these proceedings relate to proposed phosphate mining and beneficiation operations upon real property located in DeSoto and Manatee Counties, Florida; and

WHEREAS, upon publication and furnishing of due notice, a joint public hearing in these proceedings was held February 18, 19, 23, 25, 26 and 28, 1976, before the Board of County Commissioners of Manatee County, Florida, and the Manatee County Planning Commission, and

WHEREAS, this Resolution is in connection with and a part of the same proceedings resulting in the adoption of a Resolution Rendering A Development Order simultaneously herewith by the Board of County Commissioners.

NOW THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Manatee County, Florida, that:

1. The proposed phosphate mining and beneficiation operations by Phillips will be within the requirements and provisions of Section VI, Paragraph 16 of the Manatee County Zoning Ordinance upon compliance with all of the hereinafter identified conditions, restrictions and limitations.
2. Special Exception No. SE-842, be and it is hereby granted, waiving the duration requirements and provisions of Section VI, Paragraph 2 of the Manatee County Zoning

Ordinance, and the Special Exception identified as SE-248 granted Phillips by the Board of County Commissioners on October 19, 1967, be and it is hereby extended from October 19, 1967 to October 19, 2003, subject to the hereinafter identified conditions, restrictions and limitations.

3. The Phillips Petroleum Company Mining Master Plan for Manatee County, Florida, copyrighted in 1975 by Phillips and filed in these proceedings, be and the same is hereby approved subject to the hereinafter identified conditions, restrictions and limitations

4. The matters and things set forth in the Resolution Rendering A Development Order adopted simultaneously with the adoption hereof by this Board of County Commissioners in these proceedings is incorporated herein and made a part hereof by reference, including but not limited to the stated conditions, restrictions and limitations set forth therein.

5. In the event the Development Order in these proceedings is terminated and set aside, or otherwise modified, pursuant to the provisions of said Resolution Rendering A Development Order, this approval of said Mining Master Plan shall also be terminated and set aside or otherwise modified.

ADOPTED in regular session with a quorum present and voting, this the 7th day of July, 1976.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: *D. N. Lutz*
Chairman

ATTEST: M. T. McINNIS

Clerk of Circuit Court

By: *[Signature]*

Deputy Clerk

STATE OF FLORIDA

COUNTY OF MANATEE

I, M. T. McInnis, Clerk of Circuit Court, Ex Officio Clerk,
Board of County Commissioners of Manatee County, Florida, do
hereby certify that the foregoing is a true copy of

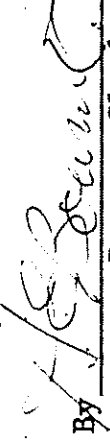
RESOLUTION EXTENDING OR REVISING AN EXISTING SPECIAL
EXCEPTION AND APPROVING MINING MASTER PLAN:
PHILLIPS PETROLEUM COMPANY

D.R.I.-7
SE-842

adopted by said Board in open Session on the 7th day of
July 1976

WITNESS my hand and official seal this 7th day of
July 1976

M. T. McINNIS, Clerk of Circuit
Court, Ex Officio Clerk, Board of
County Commissioners, Manatee
County, Florida

By 
Deputy Clerk

COUNTY OF MANATEE, STATE OF FLORIDA

IN RE: APPLICATION FOR DEVELOPMENT APPROVAL *
OF A DEVELOPMENT OF REGIONAL IMPACT AND * D.R.I.-7
THE APPLICATION OR PETITION TO EXTEND OR * SE-842
REVISE AN EXISTING SPECIAL EXCEPTION, TO-
GETHER WITH AN APPLICATION FOR APPROVAL OF *
A MINING MASTER PLAN BY PHILLIPS PETROLEUM *
COMPANY. *
*
_____ *

RESOLUTION RENDERING A DEVELOPMENT ORDER

WHEREAS, Phillips Petroleum Company, hereinafter referred to as "Phillips" has filed with the County of Manatee, a political subdivision of the State of Florida, an Application For Development Approval Of Development Of Regional Impact numbered as D.R.I.-7, an Application/Petition to extend or revise an existing special exception numbered as SE-842, together with a Mining Master Plan, and

WHEREAS, these proceedings relate to proposed phosphate mining and beneficial operations upon real property located in DeSoto and Manatee Counties, Florida, and

WHEREAS, the County of Sarasota, a political subdivision of the State of Florida, hereinafter referred to as "Sarasota County", was made an intervening party in these proceedings upon the filing of a Petition To Intervene, and

WHEREAS, William C. Grimes of Grimes, Goebel, Parry, Blue and Boylston, Archie M. Odom of Farr, Farr, Haymans, Moseley and Odom, and Jacob D. Varn of Carlton, Fields, Ward, Emmanuel, Smith and Cutler, P.A., appeared and participated in these proceedings as the attorneys for Phillips; and Richard E. Nelson and Richard L. Smith of Nelson, Hesse, Cyril and Weber, appeared and participated in these proceedings as the attorneys for Sarasota County, and

WHEREAS, upon publication and furnishing of due notice, a joint public hearing in these proceedings was held February 18, 19, 23, 25, 26 and 28, 1976, before the Board of County Commissioners of Manatee County, Florida, and the Manatee County Planning Commission, and

WHEREAS, said Board of County Commissioners and said Planning Commission heard or read the transcript of all of the oral testimony and other oral presentations, and

read the reports and other documentary evidence submitted at said public hearing by Phillips, by Sarasota County and by various persons in attendance at said public hearing, and

WHEREAS, said Board of County Commissioners, having considered the foregoing, is fully advised and informed in the premises.

NOW THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Manatee County, Florida, that the issue in these proceedings is whether the Development Of Regional Impact by Phillips should be approved, denied or approved subject to conditions, restrictions or limitations.

BE IT FURTHER RESOLVED, by said Board of County Commissioners, as findings of fact, the following:

1. A Notice Of Public Hearing in these proceedings was duly published in the Bradenton Herald, a newspaper of general circulation in Manatee County, Florida, pursuant to Section 120.57 and 380.06 of the Florida Statutes and the applicable provisions of the Manatee County Zoning Ordinance, and proof of said publication has been duly filed in these proceedings.

2. Phillips owns a total of 15,200 acres, more or less, of land, 8,700 acres of which are in DeSoto County and 6,500 acres in Manatee County. Some 10,700 acres are to be mined over the life of the project; the remaining 4,500 acres are not underlain by amounts of phosphate ore considered economically minable by Phillips. The scope of the mining operation involves (1) the extraction of the ore, (2) processing and physically separating the phosphate product from the accompanying sand and clay waste, (3) shipping the concentrated wet phosphate rock from the facility by rail, and (4) reclaiming and rehabilitating the mined areas. The mining proposal envisions the use of large walking draglines to extract the ore coupled with a hydraulic system to transport the ore to a central processing-beneficiation plant.

3. Upon consideration of the matters and things prescribed in Section 380.06(11) of the Florida Statutes, it is determined that:

- A. The development is not located in an area of critical state concern.
- B. The State of Florida has not adopted a land development plan applicable to this area.

C. Subject to the conditions, restrictions and limitations hereinafter set forth, the development is consistent with local land development regulations and is consistent with the report and recommendations of the Tampa Bay Regional Planning Council on file in these proceedings.

4. That the real property involved in this development and apparently owned by Phillips located in Manatee County, Florida, is located in Sections 14, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 and 34, Township 34 South, Range 22 East.

5. As an alternative to denying said Application For Development Approval Of Development Of Regional Impact, it is to the best interests of Manatee County to approve said Application subject to the conditions, restrictions and limitations hereinafter set forth.

BE IT STILL FURTHER RESOLVED, by said Board of County Commissioners, as conclusions of law, that these proceedings have been duly conducted pursuant to the provisions of Chapters 120 and 380 of the Florida Statutes and the applicable provisions of the Manatee County Zoning Ordinance; and that Phillips has sustained and proved all of the material allegations and assertions made in the above-mentioned applications or petition and, subject to the conditions, restrictions and limitations hereinafter set forth, Phillips is entitled to the relief prayed and applied for in said applications or petition.

BE IT STILL FURTHER RESOLVED, by said Board of County Commissioners as the decision and Development Order in these proceedings that:

A. The Application For Development Approval Of Development Of Regional Impact filed in these proceedings by Phillips, be and the same is hereby approved subject to the following conditions, restrictions and limitations:

(1) Phillips shall, prior to commencing mining operations, revise the Mining Master Plan and the Conceptual Reclamation Plan with respect to the recreation of certain land forms, land uses and natural vegetation associations -- primarily wetlands -- in order to mitigate unavoidable adverse impacts upon the natural systems of the site, subject to ratification or approval thereof by the County of Manatee.

(2) Phillips shall cause an ambient air monitoring program to be initiated and continued throughout the duration of said mining project and shall periodically report the

findings and results of said monitoring program to the Florida Department of Environmental Regulation and to the Manatee County Health Department.

(3) Phillips shall cause hydrological studies to be made and the monitoring of water quality to be carried out on a regular and continuing basis to determine what effect the proposed mining operation and the operation of said mining project will have and has upon the water quantity of surrounding lands in accordance with any requirements or regulation of the Southwest Florida Water Management District and the County of Manatee, in existence at the particular time. Said hydrological studies and water quality monitoring shall include monthly standard analyses of each production and stand by well located on the site, samplings and standard analyses of water quantity at various depths, continuing reports of the water quality of those portions of the water table aquifer contributing to surface discharge water in the area, and copies of all of these required analyses, studies and reports shall be furnished to the Southwest Florida Water Management District and the County of Manatee.

(4) Phillips shall, prior to commencing any mining operations upon the site, revise the Mining Master Plan to the satisfaction of the County of Manatee to provide for positive protection against dam or dike failure with provisions for secondary dams or alternative solutions in accordance with acceptable engineering techniques and procedures consistent with currently acceptable standards for the protection of the environment. In the event of any primary dam or dike failure or any other operational failure during mining operations, Phillips shall to the extent possible, cause all silt passing beyond the primary dam or dike system to be returned to the mining area and shall to the extent possible cause the lands beyond the primary dam or dike system to be restored or reclaimed to the same natural state as it existed prior to said failure to the extent deemed appropriate by the County of Manatee.

(5) Phillips shall cause a monitoring program to be carried out from a time beginning one (1) year prior to commencing mining operations and continuing thereafter as long as considered necessary by the Florida Department of Health and Rehabilitative Services and by the Manatee County Health Department, to ascertain the radium 226 levels in surface water upstream and downstream of the site and in ground water on the site. Copies of the analyses and reports from said monitoring program shall be furnished to the

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA
JANUARY TERM, A. D. 1976.

MAURICE FOX,

Petitioner,

vs.

**THE SOUTH FLORIDA REGIONAL
PLANNING COUNCIL and THE
FLORIDA LAND AND WATER
ADJUDICATORY COMMISSION,**

Respondents.

MAURICE FOX,

Appellant,

vs.

THE FLORIDA LAND AND WATER
ADJUDICATORY COMMISSION, THE
SOUTH FLORIDA REGIONAL PLANNING
COUNCIL and THE DIVISION OF
STATE PLANNING OF THE DEPARTMENT
OF ADMINISTRATION,

Appellees.

Opinion filed February 3, 1976.

A petition for Writ of Certiorari - Original Jurisdiction (X-487):

An Appeal from the Circuit Court for Leon County. Donald O. Hartwell, Judge (X-495).

Raymond W. Royce, of Scott, Burk & Royce, Palm Beach; and Morris M. Schnitzer, of Schnitzer & Schnitzer, Newark, New Jersey, for Appellant and Petitioner.

Robert L. Shevin, Attorney General; James D. Whisenand and John P. Ingle, III, Assistant Attorneys General; Alan Milledge, of Milledge, Horne & Hermelee, Miami; Louis F. Hubener, Tallahassee, for Appellees and Respondents.

SMITH, J.

At issue in these consolidated cases is the timeliness of an appeal filed by the Division of State Planning, Department of Administration, with the Florida Land and Water Adjudicatory Commission from an order of the Palm Beach County Board of County

Commissioners approving with conditions a development of regional impact proposed by appellant/petitioner Fox. Sec. 380.07(2), F.S. 1973. In parallel actions, the Commission denied Fox's motion to dismiss the appeal as untimely and the Circuit Court of Leon County dismissed Fox's independent suit to enjoin the Commission's consideration of the administrative appeal. Fox thereupon petitioned this Court for interlocutory review of the Commission's action [§120.68(1), (2), F.S. 1973 (1974 supp.)] and appealed from the adverse judgment of the circuit court.

The Palm Beach County Board of County Commissioners met regularly on September 3, 1974, and adopted a resolution, reduced to writing and filed in the public records on that day, approving with conditions the development of regional impact proposed by Fox according to the procedures prescribed by The Florida Environmental Land and Water Management Act of 1972, as amended. Ch. 380, F.S. 1973 (1974 Supp.). Section 380.07 of the Act created the Florida Land and Water Adjudicatory Commission, consisting of the Governor and cabinet, and provides in part:

"(2) Whenever any local government issues any development order . . . in regard to any development of regional impact, a copy of such order shall be transmitted to the state land planning agency [the Division of State Planning, Department of Administration] and the owner or developer of the property affected by such order. Within thirty days after the order is rendered, either the owner, developer, an appropriate regional planning agency [here, the South Florida Regional Planning Council], or the state land planning agency may appeal the order to the Florida land and water adjudicatory commission by filing a notice of appeal with the commission. . . ." (emphases added.)

Although the Board of County Commissioners entered its development order on September 3 and issued it on that day by reducing it to writing and filing it among public records, the Board did not transmit a copy of the order to the Division of State Planning or to Fox until September 10, when, as the Court below found, copies were mailed to them. On September 12 and 13, respectively, Fox and the Division of State Planning received their copies of the order so transmitted. On October 10 the Division of State Planning filed its notice of appeal with the Adjudicatory Commission.

The question, of course, is whether the development order was "rendered" when it was adopted, written and publicly filed on September 3 -- if so, the October 10 appeal was untimely -- or whether rendition required transmittal of copies of the order to Issue or receipt of them by the specified recipients. The lawyers in this case have given us resourceful arguments concerning the purposes of the Act, the significance of various time limitations thereby imposed and the desirability of interpreting §380.07(2) in such a way as to promote uniformity and predictability of the period in which appeals may be taken to the Adjudicatory Commission. We conceive, however, that we have no license to wrench the words of the statute to make them more appropriately serve our notion of the legislative purpose; nor is there any need to burden them with the encrustment of years of interpretation of "rendered" as applied to judicial judgments. See American Bankers Life Assur. Co. v. Fla. v. Williams, 212 So. 2d 777 (Fla. App. 1st, 1968). The choice and sequence of the verbs employed in §380.07(2) implicitly but, we think, clearly defines rendition as issuance and transmittal of the development order. The legislature apparently meant to allow for delays between the issuance of an order and its mailing or delivery to the Division of State Planning and the affected owner or developer. It therefore made transmittal the event which completes the rendition of the order and commences the thirty-day period for appeal. The Division of State Planning having appealed on October 10, exactly thirty days after the rendition of the development order, its appeal was timely.

It would be inappropriate to consider the time for appeal as extended by three days under the service by mail provisions of Rule 3.4b(3), F.A.R., applied in Dubin v. Department of Business Reg., 252 So. 2d 290 (Fla. App. 1st, 1971). The Rule and the Dubin case pertain to the calculation of the period for appeals to or other applications in the appellate courts of Florida, and they cannot be applied to influence the time for appeal within the administrative process. Henry MacAllister House Mover v. Johnson, 281 So. 2d 306 (Fla. 1973).

Contrast Martorano v. Florida Ind. Comm'n, 160 So. 2d 744 (Fla.

App. 3d, 1963), in which the statutory period for review began with "notice" to the party affected, and three days were judicially added to the mailing date to allow for receipt.

If our view of the statute has the unfortunate effect of subjecting parties in local government proceedings to "the vagaries of clerical happenstance and postal miscarriage," as Fox's lawyer aptly puts it, we can at least suggest, and we do, that local governments minimize the uncertainty of the rendition dates of their orders by appending to them appropriate certificates of the transmittal dates.

The judgment of the circuit court is AFFIRMED and the prayer of the petition for review is DENIED.

RAWLS, Acting Chief Judge, and MILLS, J., CONCUR.