



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Use of Phosphogypsum/Small Scale Road Pilot Project: Center for Biological Diversity Files Federal Appellate Court Challenge to U.S. Environmental Protection Agency Approval

02/27/2025

The Center for Biological Diversity (“CBD”) filed a Petition for Review (“Petition”) in the United States Court of Appeals for the Eleventh Circuit challenging the United States Environmental Protection Agency (“EPA”) approval of a request for a:

...Small-scale Road Pilot Project on Private Land in Florida (“Project”).

The request for EPA approval of the Project was submitted by Mosaic Fertilizer, LLC in March 2022 and an updated request was submitted in August 2023.

EPA approved the request on December 23, 2024. See 89 Fed. Reg. 104535.

EPA describes phosphogypsum as a waste byproduct of wet acid phosphorus production. It is stated to contain elevated concentrations of the radionuclide radium.

40 CFR part 61, Subpart R requires that phosphogypsum be disposed of in engineered piles, called stacks, to limit public exposure to its radioactive components. Subpart R does allow the removal of phosphogypsum from stacks for:

- Outdoor agricultural purposes.
- Indoor research and development.

Such use is subject to conditions and restrictions.

Any other use requires approval from EPA. Such a request may be approved if the agency determines that the proposed use is at least as protective of public health as placement of phosphogypsum in an engineered pile.

Mosaic Fertilizer, LLC submitted a proposal described as constructing a small-scale pilot project at its New Wales facility in Polk County, Florida. This includes the construction of four sections of test road having varying mixtures of phosphogypsum in the road base “to demonstrate the range of phosphogypsum road construction designs that meet the Florida Standard Specifications for Road and Bridge construction”. It

will be constructed in place of an existing facility road near the stack. The study would be conducted in conjunction with researchers from the University of Florida.

EPA has previously noted in a response to comments on the prior proposal to have received a number of objections to the Project.

A copy of the Petition can be downloaded [here](#).