



Public Service Commission

State of North Dakota

COMMISSIONERS

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April 3, 2008

Mr. Rodney Raber
Gascoyne Plant/ Mining Manager
American Colloid Company
P.O. Box 158
Reeder, ND 58649

Dear Mr. Raber:

Enclosed is Notice of Violation 0801 issued today, April 4, 2008, to American Colloid Company for failure to take appropriate measures to protect the undisturbed cropland from deposition of leonardite fines from Pit B-1 located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2 within Permit ACPG-9701.

Please note the appeal rights stated on the NOV form. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

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NOTICE OF VIOLATION
NORTH DAKOTA PUBLIC SERVICE COMMISSION
 SFN 18099 (10-91)

N.O.V. Number
0801

Name of Permittee American Colloid Company		Permit Number ACPG-9701	
Address Box 158 Highway 12	City Reeder	State ND	Zip Code 58649
Telephone Number 701-275-8202	Mine Perkins Mine	County Bowman	

Name of Operator (if other than permittee)

Address	City	State	Zip Code
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Date of Inspection March 26, 2008	Time of Inspection From: 12:40	<input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.	To: 01:30	<input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.
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Under the authority of North Dakota Century Code Chapter 38-14.1, the undersigned authorized representative of the Commission has conducted an inspection of the above mine on the above date and has found a violation of the statute, rules, permit condition(s), or section(s) of the approved operations and reclamation plan listed on page 2 of this Notice of Violation.

You must abate this violation within the designated abatement time.

The undersigned authorized representative finds that cessation of surface mining activities is is not expressly or implicitly required by this Notice of Violation.

This Notice of Violation shall remain in effect until it expires as provided on the reverse side of this page, or is terminated or vacated by written notice by an authorized representative of the Commission.

Print Name of Person Served Rodney Raber	Print Title of Person Served Gascoyne Plant/ Mining Manager
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail	Date of Service April 4, 2008
Signature of Person Served	Signature of Authorized Representative <i>Heath A. Schuler</i>

Nature of Violation
The mining operator failed to take the appropriate measures to prevent and control wind-blown leonardite fines from being deposited onto undisturbed cropland and grassland at the Perkins Mine as indicated would be controlled by methods outlined in Section 3.4.1 of Permit ACPG-9701.
(if applicable, include the extent to which the violation cannot be corrected)

Distribution: Public Service Commission; Permittee/Operator; and, OSM Field Office

Provision(s) of the Statute, Rules, or Permit Violated

NDCC 38-14.1-24(4) requiring the mine operator to stabilize and protect surface areas to control erosion and attendant air pollution.

Portion of the Operation to which this Notice Applies (Include legal description)

This violation applies to a 1.62 acre area immediately east of Pit B-1 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, T130N, R99W at the Perkins Mine.

Remedial Action Required (Including interim steps, if any)

The operator must remove, to the extent possible, the deposited leonardite materials on the surface of the undisturbed cropland. Removal of the leonardite in the grassed areas is not recommended since the amount deposited is less than that in the cropland and attempting to remove the wind blown leonardite is likely to cause a greater disturbance to these areas. Immediate measures must be taken to prevent exposed leonardite from blowing out of open pits. The silt fences at the top of the pit edge must also be cleaned and reset to try to capture any further materials blown by the wind.

Furthermore, the mine operator must commit to implementing the methods to control the leonardite from blowing out of the open pits as outlined in Section 3.4.1 of Permit ACPG-9701 in a more timely manner in the future.

Time for Abatement (Including interim steps, if any)

The remedial action should be accomplished within 15 days of the receipt of this NOV in order to not interfere with the farming operations in this part of the cropland.

IMPORTANT - PLEASE READ CAREFULLY

1. **MINESITE HEARING.** A Notice of Violation which requires cessation of surface mining activities, expressly or by necessary implication, shall expire within thirty (30) days after it is served unless an informal public minesite hearing has been held at or near the minesite within that time or the hearing has been waived. On the reverse of this page, an authorized representative has made a finding as to whether this Notice requires cessation of surface mining activities. If cessation of mining is required, an informal public minesite hearing will be automatically scheduled by the North Dakota Public Service Commission and will be held within thirty (30) days of the service of this Notice, unless you or your agent waive that hearing in writing.
2. **INFORMAL CONFERENCE.** Notwithstanding the informal minesite hearing provided for in paragraph 1, you must apply for an informal conference with the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice in order to preserve your appeal rights. You may apply for an informal conference by submitting a written request for an informal conference to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. The informal conference will be held in the locality of the mine if requested. A stenographic record will be made of the informal conference unless waived by all parties.
3. **FORMAL PUBLIC HEARING.** If you do not desire an informal conference, you may apply for a formal hearing regarding this Notice by submitting a written request for a hearing to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. If you do not request an informal conference or a formal public hearing within thirty (30) days, your right to appeal will be forfeited. Please note that you will also have the opportunity to request a formal hearing within thirty (30) days of the decision on the informal conference held under paragraph 2.
4. **TEMPORARY RELIEF.** You have the right to request temporary relief from this Notice pending completion of any investigation and hearing procedures being conducted. A request for temporary relief must be in writing as set forth in subsection 4 of North Dakota Century Code Section 38-14.1-30 and filed with the North Dakota Public Service Commission. The request for temporary relief must include a detailed statement giving reasons why such temporary relief should be granted. The request for an informal conference or a formal public hearing will not stay enforcement of this Notice unless temporary relief is requested and granted.