



Public Service Commission

State of North Dakota

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August 6, 2009

Mr. Rodney Raber
Permitting & Reclamation Department
American Colloid Company
P.O. Box 2010
Belle Fourche, SD 57717

Dear Mr. Raber:

The Reclamation Division has completed a technical review of the application for Bond Release No. 2 to Surface Coal Mining Permit No. BDSU-8011. The application must be updated to address the following issues prior to further action:

Application for Final Release of Bond (SFN19813)

1. Please revise the first page of the Application to show that the legal description of the property is located in Range 94W rather than 99W. (GAW/BEB/SAS)

Attachment V – Post Mine Land Use

2. Please depict section and quarter lines and the appropriate section numbers on Attachments V, VII, VIII and IX. NDAC 69-05.2-12-12(4). (GAW)

Attachment VI – Tract History, Bonding and Vegetation Data

3. Please update the tract history to include the dates of mining, backfilling and grading, and soil respread in Attachment VI. This discussion should also indicate when the permit was transferred from NL Bariod to the American Colloid Company. Also indicate that the area previously received first and second stage bond release for completion of grading and soil respreading and specify the date that the partial bond release was approved. In addition, please indicate how many acres of undisturbed land are included in the bond release application. We recommend including a short discussion to mention that hard coal (lignite) that was mined in the middle of the bond release tract and adjacent high-ground areas to the west prior to the enactment of any reclamation law. (BEB & DKM)

4. Please include a narrative discussing whether or not the reclaimed land developed different reclamation site types with recognizable differences in vegetation. PSC Revegetation Document, Section II-D-6. (GAW)
5. Please include a discussion showing that the reference area was managed comparable to the reclaimed grassland. PSC Revegetation Document, Section II-D-6. (GAW)
6. Table 3, pre-mine rangeland soils and range site data for Permit BDSU-8011 has a heading entitled "Total Ac. BCS". Please remove BCS from the heading if other changes are being made to this table or explain what the acronym stands for in this table. (GAW)
7. Table 5, shows the NRCS yield for the Regent/Rhoades map unit as being 1300 lbs/ac in 2007 and 1400 lbs/ac in 2008. Please correct this error and indicate the percentages of each map unit component for complex map units. This would include the Regent/Rhoades complex and the Cabba/Sen complex. (GAW/SAS)
8. Please correct the adjusted yield standard for the Regent/Rhoades soil mapping unit in Table 7. It appears that the adjusted yield for this soil mapping unit in 2008 should be 1302 lbs/acre rather than 1402 lbs per acre. The 2008 adjusted yield standard for the tract should then be updated accordingly. (GAW)
9. Please recalculate sample adequacy for the 2007 and 2008 cover data for the reclaimed and reference area. An incorrect "t" value was used in the formula for the reference area for both years, and the "p" and "q" values listed in the formulas are not correct. (GAW)
10. In the Summary Analysis of Reclamation Success please mention that Tables 1 and 2 summarize whether or not the productivity, ground cover, seasonality and diversity standards have been achieved, as required. Please modify Table 2, to include information regarding the 65% relative native species composition requirement. Based on the sampling data, the 65% native species composition requirement has not been achieved. Therefore, American Colloid will need to request, in the bond release application, that the Commission suitably modify the diversity standard to allow a variance from the 65% native species composition requirement. In addition, the sentence in the Summary section that states that "the reclaimed grassland within BDSU-8011 met or exceeded regulatory standards.... will need to be modified accordingly. The summary narrative should also discuss the presence of invasive non-native species, i.e. crested wheatgrass, and why this species should not be considered detrimental to the post-mine native grassland land use. This discussion should indicate if crested wheatgrass is also prevalent on the adjacent undisturbed lands and if the species composition of the reclaimed native grassland is compatible with the adjacent undisturbed grassland. And, finally, in the Summary narrative, please discuss the native grassland permanence standard requirement. PSC Revegetation Document, Section II-D. (GAW)

Attachment VII – Pre-Mine Soils and Land Use

11. Please delineate the native grassland reference area on the Pre-Mine Soils and Land Use Map, Attachment VII, so that the range site or ecological site type can be determined from the soil mapping units. (GAW)

Attachment VIII – Post-Mine Topography, Post-Mine Land Use and Soil Respread Depths

12. Please depict the elevations on more of the contour lines on Attachment IX. (GAW)

Attachment IX – Seeding Dates, Vegetation Sample Locations and Variance Areas

13. Please revise Attachment IX so that the seeding initiation dates can be more easily determined. This might most easily be accomplished by not including the aerial image in the map. (GAW/SAS)

General

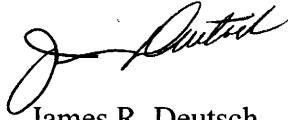
14. There is a one-sentence statement in Attachment VI that describes that the current use of the well in the southwest portion of the bond release tract is proof that ACC mining operations did not affect any water supplies during the course of mining activities. Additional information regarding the affects of mining on surface and ground water resources is needed in the bond release application. We recommend that ACC add an Attachment to the bond release application labeled as *Hydrology* to address the hydrologic protection performance standards that must be met as outlined in the reclamation law and rules. In particular, for surface water, please include a brief discussion documenting that the reclaimed lands are not contributing suspended solids to stream flow or runoff outside of the permit area as required by NDAC 69-05.2-12-12(7)(b). Also, please mention if there were any off-site discharges associated with NDPDES Permit No. ND-0025763, any violations associated with the three discharge points associated with this permit, and when the permit was allowed to expire. For ground water information, please discuss pre-mine and post-mine (if available) water quality of the six domestic wells that were sampled for water quality during collection of baseline environmental data. In addition to the availability of water to the above-described stock well, please indicate if pre-mine and/or post-mine water quality analyses were conducted on the well water and provide that comparison in the bond release application. This discussion should also briefly discuss why no groundwater monitoring was carried out within and adjacent to the permit area. Information pertaining to water resources associated with Permit BDSU-8011 is available in Appendix 12 of the permit. The primary hydrologic protection performance standards that should be addressed in the bond release application are located in NDAC 69-05.2-16-01(a) and (b). (BEB & GAW)
15. Please include digital copies of Attachments V, VII, VIII and IX so that they can be reproduced at a standardized scale. NDAC 69-05.2-05-02(5). (GAW)

Mr. Rodney Raber
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Please be reminded that the Reclamation Division needs proof of publication of the public notice as required by NDAC 69-05.2-12-12(3) and copies of the landowner and agency notification letters.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Deutsch". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke.

James R. Deutsch
Director
Reclamation Division