



Public Service Commission

State of North Dakota

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March 15, 2013

Ms. Melody Smith
Environmental Specialist
American Colloid Company
P.O. Box 2010
Belle Fourche, SD 57717

Dear Ms. Smith:

The Reclamation Division has reviewed the January 30, 2013 completeness responses submitted by American Colloid Company for the application for Revision No. 7 to Surface Coal Mining Permit ACPG-9701 that proposed to add the Tompkins Mining Area to the permit. In addition to requesting information as a follow-up to original completeness deficiencies, a few additional items were noted during this review phase and should also be addressed at this time. The following items must be addressed or corrected before the revision application will be deemed complete and publication of the newspaper notice can begin as required by NDCC 38-14.1-18.

General

1. A number of hyperlinks to maps and other sections of the permit or "*Back to Main Directory*" do not work properly. Please review all hyperlinks and repair the broken links so that the application can be viewed as intended. (GAW/ZAT)

Section 1.1 – Introductory Information

2. Follow-up to original completeness item No. 9: We have noted that changes to signatories, names of company representative, etc. on page 2 of 2 of the application form, Section 1.1.1.1(g), have been made; however, carrying the acreage being added down to the "TOTAL ACRES" column on page 1 of 2 was not completed as stated. Please add the 149.28 acres to the TOTAL ACRES box in the table that is provided. Also, narrative at the top of page 1 describes that the mining and reclamation operation is being revised "To amend an additional 149.28 acres..." and since changes have to be made to this form, this sentence should be reworded to state the operation is being revised "to **add** an additional 149.28 acres..." which will more clearly state the intent of the revision application. (BEB/GAW/ZAT/WTG)

Section 1.2 – Legal Information

3. Follow-up to original completeness item No. 12: Please provide the northing and easting of the point of beginning for the legal description. Also, please indicate the coordinate system used for the survey. (MDB)

Section 1.2.4(d) - Newspaper Notice

4. Follow-up to original completeness item No. 7: It does not appear that any of the requested changes or updates to the publication map has been completed. Please label State Highway 12, Buffalo Creek, 127th Ave. SW, BNSF railway, and provide a map scale on the publication map and move the section number label for Section 35 away from the hatched amendment area on the map so that it is legible. Please also note that Highway 12 should be labeled as a U.S. highway rather than a North Dakota state highway as originally requested. (BEB/GAW/ZAT/RLK/WTG/FSE)

Section 2.4 – Fish and Wildlife Resources

5. Follow-up to original completeness item No. 20: Please provide the results of the plan to acquire fish and wildlife information for the proposed addition area. The approved plan states that wildlife habitats will be identified and classified and that there will be a description of the fish and wildlife utilization of the area during field reconnaissance. A detailed baseline wildlife habitat map showing the permit and surrounding area must be included and the dates that survey information was obtained must be documented. Adding a single paragraph stating that “*In December of 2007 Kelly Krabbenhoft performed a wildlife reconnaissance survey in conjunction with the pre-mine vegetation survey*” is inadequate. Please review the approved plan and NDAC 69-05.2-08-15, and provide the required information. (GAW)

Section 3.2 – Operation Existing Structures

6. New Item - Please include a map that shows all existing structures on or within one half mile of the proposed permit area as required by NDAC 69-05.2-08-02. This should include the location and current use of all buildings on or within one half mile of the permit area, the location of all surface and subsurface features passing over, under or through the permit area (i.e. utility lines, pipelines, etc.), all public roads in or near the permit area and the location of any surface and underground mines in the area. (GAW)

Section 3.5 – Operations – Transportation Facilities

7. Follow-up to original completeness item No. 23: Please update the transportation narrative to clarify that the trucks being used to transport the coal will be legal on the township road by stating something to the effect that “Leonardite will be hauled from the mine area via semi-tractor trailers which are licensed for travel on public roadways.” Please supplement the narrative to clarify your transportation plans in the permit. (MDB)
8. Follow-up to original completeness item No. 23: We understood that a large portion of the haulroads will be within the immediate mining area; however, it does not appear that the haulroads in the eastern portion of the permit area will be within the immediate mining area and it

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does not appear that this area drains directly to a pond with crossing topsoil. Therefore, the portion of the road(s) which will not drain to the pits will be required to be certified as a primary road and the necessary design plans and certification will be required in the permit. (MDB/FSE).

Section 3.6 – Operations – Surface Water Management

9. New Item - New design plans were submitted for the north pond in the Tompkins Area; however, it does not appear that the pond will function as designed. The surrounding topography has an elevation of 2770 ft., whereas the inlet of the pond has an elevation of 2775 ft. due to a constructed berm. Water would need to be 5 feet deep in the adjacent wetland before flowing into the pond. It is suggested that a diversion be designed to move water from the low area into the pond and to redesign the pond by lowering the bottom to provide storage capacity to the inlet elevation if you prefer to leave the pond in this location. (MDB)

Section 4.1 – Reclamation Plans

10. New Item – In the Detailed Table of Contents, it appears that Section 4.1.1(c) is actually linked to the map in Section 4.1.2(c) instead of the intended narrative. Please redirect the link. (MDB)

Section 4.2 – Reclamation - General

11. New Item - As required by NDAC 69-05.2-08-02(3)(a) please provide 5-foot contours on the Tompkins Mine Area Pre-Mining Contour Map in Section 4.2.7(a)(3). (MDB)
12. Please include a link to the bonding calculations in Section 4.2.4 in the Detailed Table of Contents. The worst case bond should also be updated to the 2012 variable costs, as well as a new worst case scenario. It appears 2014 will be the worst case scenario as mining will be occurring in both the Perkins and Tompkins Mine Areas, which should be the time of maximum disturbance. Please update accordingly. (MDB)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

cc: Bowman County Auditor