

April 2, 2013

Mr. James R. Deutsch, Director
Reclamation Division
North Dakota Public Service Commission
600 E. Boulevard Ave.
Bismarck, ND 58505

PERMITTING & RECLAMATION DEPARTMENT
P.O. Box 2010 • Belle Fourche, South Dakota 57717
PH. (605) 892-6950 • FAX (605) 892-6979

RE: Response to Revision 7 Completeness Review (Round 3) Deficiency Comments dated 3/15/2013 for ND Permit ACPG-9701.

Dear Jim:

American Colloid Company (ACC) has prepared this response to the Reclamation Division's March 15, 2013 Round 3 review of the application for Revision No. 7 to Surface Coal Mining Permit ACPG-9701. Revision No. 7 to ACPG-9701 proposes to add 149.28 acres to the permit through addition of the Tompkins Mine Area.

Please review the document for completeness. Technical review submittal is not anticipated to occur until the pending Revision 8 is approved (currently under second round technical review) per December 2012 communication with you. After Revision 8 is approved, those updates will also be incorporated into the Revision 7 document submitted for technical review.

The Division requested the following items be addressed prior to the application being deemed complete and initiation of newspaper notice publication as required by NDCC 38-14.1-18. This list includes follow-up to original completeness deficiencies as well as additional items noted during this review.

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)

Completed as requested.

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)

Completed as requested. The revised notarized form is included in hard copy with this submittal.

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 1.2.1(d) has been updated as requested.

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)

Completed as requested. The following statement was added to the legend to address map scale because the map will be resized during layout for publication (at which time a discreet map scale would become inaccurate): “The length of one Section represents a mile”.

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)

Sections 2.4.1 and 2.4.4 have been updated with available information. The wildlife habitat map is represented by the vegetation map in Section 2.7.4(h) to which a photo background has been added to provide a visual overview of project area and adjacent habitat types.

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)

7.

A map showing existing structures (roads, power line, underground fiber optic line, structures/buildings) within the Tompkins Amendment area and a 0.5-mile buffer has been added as Section 3.2(a) Existing Structures Map.

Section 3.5 – Operations – Transportation Facilities

8. 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)

Completed as requested.

9. 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 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).

The length of the haul roads classified as primary roads have been designed and certified as presented in Section 3.5.4(d) and Section 3.5.1 has been updated. The northeast portion of the East Drainage Area (Section 3.6.1(c): Figure 4) occurring on the north side of the haul road will drain to the east sediment pond via a culvert under the haul road. A “V-ditch” will be utilized if necessary to direct flow through the culvert to the sediment pond.

Section 3.6 – Operations – Surface Water Management

10. 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)

The North Drainage area is comprised of slopes draining from the east and west into the sediment pond, with ponding controlled by the 2775' embankments on the north and south. The Closed Drainage North drainage basin area is lower (2770') in elevation and naturally functions as a

shallow closed basin; that area is not intended to drain into the constructed sediment pond. Water from the closed basin area may drain into pits as they are mined; this water will be pumped into the sediment pond as needed. As mining progresses, water will be directed into sumps within the disturbance areas and either pumped into the sediment pond or used for dust control. Water from the sediment pond water will also be utilized for dust control so discharge needs are not anticipated. If discharge is required to lower water levels, a NDPDES permit will be obtained and water will be discharged toward the wetlands to the north. Section 3.6.1 has been updated to reflect this additional information. Note that the closed basin is currently utilized as crop land, indicating that under normal circumstances significant volumes of water do not pond, and any ponding that does occur does not persist for extended periods of time.

The HWL on Figure 8 A-C was also revised to accurately read 2766.6.

Section 4.1 – Reclamation Plans

11. 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)

Completed as requested.

Section 4.2 – Reclamation - General

12. 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)

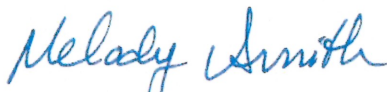
Completed as requested.

13. 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)

Link updated as requested. Section 4.2.4 Reclamation Costs have been updated to reflect the worst case (2014) bond based on completing backfill of Pit A-8 before C-4 is opened, and mining in both the Perkins and Tompkins mine areas. Calculations indicate the bond required is less than the bond currently on file.

If you have any questions, please contact me at 605-892-7178 or melody.smith@colloid.com.

Sincerely,



Melody Smith
Environmental Specialist
American Colloid Company