



Public Service Commission

State of North Dakota

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July 25, 2013

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

Dear Ms. Smith:

The Reclamation Division has conducted a technical review of American Colloid Company's application for Revision No. 7 to Surface Coal Mining Permit ACPG-9701 for the Tompkins Mine Area. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on this application. As of July 25, 34 days of the Commission 120 day review period remain.

General

1. Please include a print scale in the legend of every map in the permit and review each map to ensure the map is legible at the chosen print scale. For example, the word font is too small on the maps in Sections 2.7.4(i), 2.7.4(h), Section 3.2, and Section 4.12(c). (GAW)

Section 1.0 – General Introduction

2. Please revise the Technical Data portion of the General Introduction in Section 1.0 by adding James D. Strait, Ethnoscience, Inc. as he conducted the cultural resource inventory for the Tompkins Mine Addition Area; Dr. David Bickel, Bickel Consulting, LLC, for conducting the alluvial valley floor study for the Tompkins Mine Area addition; and Kelly Krabbenhoft, KDK Consulting of Fargo conducted a wildlife survey and vegetation inventory of the permit in 2007, which should also be listed. A previous listing for KDK in this section is erroneously labeled as KTK Consulting. Also, included should be Prairie Soil Consulting, LLC for conducting the soil survey. Please add any other individuals or companies who conducted baseline contract work for the Tompkins Addition Area as required by NDAC 69-05.2-05-02(3). (BEB, GAW, WTG)

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Section 1.1 – Introductory Information

3. Please update the Revision Summary listing in Section 1.1.2 because the Seventh Revision summary states that Revision 8 was submitted to add 149.28 acres to the permit for the Tompkins Amendment and this should be changed to Revision 7. (BEB, GAW)
4. Sections 1.1.5.2(c) and 1.1.5.3(c) provide unsigned approval forms from Fischbein Township for road use permits and mine disturbance permits within 100 feet of 127th Ave. SW. Please incorporate signed and dated copies of those forms into those sections of the permit and clarify if 127th Ave. SW is a County or Township Road. It appears that a portion of this road located east of the Tompkins property is a County Road as indicated in Section 2.7.1 rather than a Township Road. Please include the properly executed forms in the permit and clarify road ownership/classification as requested. (BEB, GAW, WTG)

Section 1.2 – Legal Information

5. The Certificate of Liability Insurance provided in the permit in Section 1.2.5 expired on June 1, 2013 and it appears the Notice of Cancellation or Coverage Reduction form has been expired for some time. Please update these sections of the permit with current information. (BEB)

Section 1.3 – Business Entity/Compliance Information

6. If changes to the officers and directors and/or organization structure have occurred from what is currently provided in the permit, please update the Organizational Structure information in Section 1.3.1 accordingly. (BEB)
7. Once approval has been received from Fischbein Township for road use and mine disturbance within 100 feet of 127th Ave. SW, please update the spreadsheet in Section 1.3.5, Other Licenses and Permits to reflect Township approval. (BEB)
8. The table containing other licenses and permits in Section 1.3.5 shows that the Air Pollution permit from the ND Department of Health expired on May 21, 2013. Please revise to show that Permit M77001 has been renewed as required by NDAC 69-05.2-06-04. (GAW)
9. Both of the hyperlinks provided in Section 1.3.6, Relationship to Areas Designated Unsuitable for Surface Mining, do not work. Please repair the links. (BEB)

Section 2.2 – Ground Water Hydrology

10. Please add the corresponding monitoring well numbers e.g. LP #1, LP #2, LP #3, etc. to the Water Well Drillers Reports (Tompkins) that are provided in Section 2.2.2(c). Simply hand writing the monitoring well numbers at the top of each Well Driller's Report will be adequate. Alternatively, bookmarks providing the corresponding monitoring wells numbers would also be adequate. (BEB)
11. Ground Water Narrative in the second paragraph of Section 2.2 provides previous permitting information for either the Page or Perkins Mines application and describes that the Harmon Lignite aquifer outcrops northwest of the permitted area along Highway 12. Further narrative

describes that ground water in the Harmon lignite and the beds above it are discharged north of the mining area leaving the Leonardite and its overburden unsaturated. It appears likely from the permit narrative that the location description of these discharge areas could be in or around the Tompkins Mine Area. Please add to the narrative by describing whether or not the Tompkins Mine is the area described in the permit and whether or not seeps or springs were inventoried in the Tompkins Mine Area. If seeps or springs are located within the permit or adjacent area, please show their locations on the Water Well Location Map, Section 2.2.2(c) and further discuss them in the appropriate narrative. (BEB)

12. Please describe or summarize in Section 2.2 plans for restoration of approximate pre-mining recharge capacity of the reclaimed permit area as required by NDAC 69-05.2-16-15. Restoration of recharge capacity may consist of such items as contemporaneous revegetation, concave landscape development and ephemeral catchments, retention of developed water resources, wetlands, etc. (BEB)

Section 2.3 – Geology

13. A portion of the General Geology Narrative, Section 2.3.1, could be rephrased to provide clarity regarding the occurrence of Leonardite in the permit area. Within the second paragraph it is stated that “...*marketable Leonardite only lies in areas where overburden ranges in thickness from approximately 3 feet to 20 feet where the zone of oxidation has not penetrated to great depths.*” We recommend you consider re-writing that sentence to clarify that Leonardite is located within the oxidized zone and it is because of the described oxidation processes and its’ effect on lignite that Leonardite (oxidized lignite) is present in the permit area, or something similar to that. (BEB)
14. There appears to be some text link issues with Section 2.3.8, Thin Overburden Calculations. The link to Section 2.3.8 erroneously takes the reader to the overburden thickness isopach map; and Section 2.3.8(a) (Page) also takes the reader to the overburden thickness isopach; and Section 2.3.8(b) (Perkins) takes the reader to the thin overburden calculations for the Page Mine; and the thin overburden calculations for Tompkins Mine takes the reader to the thin overburden calculations for the Perkins Mine. Please provide the thin overburden calculations for the Tompkins Mine and redirect all of the links in Section 2.3.8 to their correct locations. (BEB)
15. In Section 2.3.4, Drillhole Information, please describe American Colloid’s method of casing, sealing, or otherwise managing drillholes and boreholes within the permit area to prevent toxic drainage from entering ground waters and minimize disturbance to the prevailing hydrologic balance. NDAC 43-02-01-14 describes the drillhole sealing/backfilling procedures to comply with the requirements of the State Geologist. (NDAC 69-05.2-14) (BEB)

Section 2.4 – Fish and Wildlife Resources

16. Please revise Section 2.4.1, Fish and Wildlife Narrative and Section 2.4.4, Current Status of Fish and Wildlife Tompkins Mine Area, to include fish and wildlife resource information for the areas adjacent to the proposed permit area as required by NDAC 69-05.2-08-15. Section 2.4 states that the habitat types are shown on the Pre-Mine Land Use and Vegetation Maps, Section 2.7.3, but the Pre-Mine Land Use and Vegetation Map for the Tompkins property, Section 2.7.4, includes information for only the proposed permit area and does not include the adjacent areas. Please provide the information as required by the rule. (GAW)

17. The fourth paragraph of Section 2.4.1, Fish and Wildlife Narrative, states that the premine land use vegetation maps are presented in Section 2.7.3. However, Section 2.7.3 pertains to the Perkins property only. Please correct this discrepancy. (GAW)

Section 2.6 – Surface Water Information and Monitoring Plan

18. Page 2 of Section 2.6.1, Surface Water and Hydrologic Narrative, lists nine reasons why surface water quality will not be affected within the permit, and items a and f appear to be incomplete sentences. Please review the listing and complete the sentences with your intended wording. (BEB)
19. Narrative on the first page of Section 2.6.1, Surface Water and Hydrologic Narrative, states that water will not be pumped from the permitted property and we recommend you consider redacting that statement in the event that off-permit discharges are required as a result of concentrated snow melt runoff or precipitation events that fill the sedimentation ponds. If not done so already, we also recommend that you contact the State Health Department and have your NDPDES Permit No. 0026077 amended to incorporate new discharge points for the Tompkins Mine Area as it appears your current permit authorizes discharges only from T130N, R99W, which does not include the Tomkins property. (BEB)
20. Please expand the paragraph on page 2 of Section 2.6.2 pertaining to surface water samples to indicate the current sampling frequency for the surface water sites are identified in the surface water monitoring plan. The surface water sample frequency should remain at once every other year, at a minimum, since the surface water quality has been variable and surface water sites could not always be sampled as scheduled. The reference or link to the surface water monitoring plan described in described in Section 2.9 should also remain in this narrative. (NDAC 69-05.2-16-05) (RLK)

Section 2.7 - Pre-Mine Land Use and Vegetation

21. A sentence in the Tompkins Mine Area narrative in Section 2.7.1, states that there are no other manmade features located on the permit area, but the Existing Structures Map, Section 3.2(a) shows power lines in the permit area on the east and south sides of the tract. Please review and revise as necessary. (GAW)
22. Please review and correct as appropriate the following which appear to be copy/paste errors on page 1 of Section 2.7.4(a). Please change Section 2.7.3(a) on the upper and lower left of the document to Section 2.7.4(a). Also, change the revised date of 1/98 in the lower right corner to be consistent with the Tompkins soil survey report dated 2007. Similar copy/paste errors need to be addressed at the bottom of the page in Section 2.7.4(f). (ZAT)
23. On page two of Section 2.7.4, please change the incorrect NDAC 69-05.2-08-08(1)(b) cite listed behind the bolded title Native Grassland Mapping Units Range Site Description to NDAC 69-05.2-08-08(1)(c). (ZAT)
24. It has been more than five years since baseline land use, vegetation and wildlife habitat information was collected. Please have the consultants or company personnel revisit the tract and

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verify that the information in Sections 2.4 and 2.7 is still accurate or update as necessary. NDAC 69-05.2-05-01 requires information that is current. (GAW)

25. A sentence in the first paragraph on page 1 of Section 2.7.4 states that the Modified Palmer Drought Index for the area was below zero for most of the previous 24 months. Although Section 2.7.4 is dated December 2007, the specific time period of the 24 month period is not clear. Narratives at the top of page 2 of Section 2.7.4 state high spring moisture resulted in above average production of the native grassland. Please revise to clarify if the area was wet dry, or normal during the inventory period(s). (NDAC 69-05.2-05-02) (GAW)
26. A sentence in the second paragraph on page 1 of Section 2.7.4 states that the cropland has an estimated average yield of 25 bushels of wheat per acre. Please update the narrative to clarify how this average yield value was determined. (GAW)
27. Section 2.7.4(e) indicates that the shallow range site was sampled in 2007 but the dominant native grassland mapping unit is a silty site. Please revise the second paragraph on page 1 of Section 2.7.4 to clarify why the shallow site was sampled to provide an assessment of the ecological condition of the native grassland rather than the dominant site. (GAW)
28. The last sentence on page 3 of Section 2.7.4 states that the silty site has the potential to produce about 1,200 to 1,700 pounds of air-dry herbage per acre during a normal growing season but Section 2.7.4(f) shows that all of the silty range site soils have an average potential yield of 1,650 lbs. per acre. Please explain this average yield difference. (GAW)
29. Please include a map in Section 2.7.4 showing the location where the native grassland was sampled in 2007. (GAW)
30. Please include a map or aerial photograph that delineates the existing mapping units for the cropland as required by NDAC 69-05.2-08-08(1)(a)(1). (GAW, ZAT)
31. Section 2.7.4(h) is listed as the Vegetation Map in the table of contents but is labeled as the Native Grassland Map Units map and Section 2.7.4(i) on the map itself. It appears that this map would be more appropriately labeled as the Pre-Mine Land Use Map. Please revise or correct this inconsistency. (GAW)
32. The Surface Water Management narrative in Section 3.6.1 states that there is a closed basin south of the north sediment pond. Please mention the existence of this feature and discuss why this site is not considered a temporary wetland. Please also discuss why the soils of this feature would not be mapped separately. Please explain why the Heil clay loam and Dimmick clay loam soil mapping units are not considered wetlands if they are hydric soils. Aerial photography indicates that several areas in this field were too wet in 2012 to accommodate herbicide application equipment. (NDAC 69-05.2-08-08(1)(2)(d)) (GAW)

Section 2.8 - Soil Resources

33. As required by NDAC 69-05.2-09-15(4), please reference the Section 4.2.7(b)(3) Post Mining Contours map (as noted in a related deficiency) in the Section 2.8.4(b) Prime Farmland Reclamation narrative paragraph for the potential locations where prime farmland acreage will be respread. (WTG)

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34. Please add a legend to the Prime Farmland Map, 2.8.4(c), which identifies the mapping units, including ArB – Arnegard loam, 2 to 6 percent slopes, and GeA – Gail silt loam, 0 to 2 percent slopes. (ZAT, WTG)
35. Please expand the narrative of the Tompkins Mine Area in Section 2.8.1 to include the information required by NDAC 69-05.2-09-15(1). Please also remove the reference to the Web Soil Survey of Adams County, and instead list the *Soil Survey of Bowman County, North Dakota (1975)* as the cooperative soil survey that identified the prime farmland in the Tompkins Mine Area. The additional information for this section required by NDAC 69-05.2-09-15(1) for the prime farmland soil map units is available from the NRCS Soil Data Mart website. (WTG)

Section 2.9 – Probable Hydrologic Consequences

36. Please change the name of this section to *Ground Water and Surface Water Probable Hydrologic Consequences*. Often, the ground water PHC is located within the ground water section of the permit and the surface water PHC is located within the surface water section of the permit. The current location for this section is acceptable as long as you specify in the heading that this is the location for both ground water and surface PHC determinations. (BEB)
37. The third sentence on page 1 of Section 2.9(a), PHC for Tompkins Mine Area, states that “*To aquifers occur above the leonardite seam*” and this appears to be a typographical error. If the intention is to state that “*No aquifers occur...*” then please revise the sentence to eliminate the possibility for misinterpretation of the sentence. (BEB)
38. The watershed boundary on the north side of the Tompkins permit area is depicted differently on the maps for Premine Drainages, Section 2.7.5(A), and Post Mining Contours, Section 4.2.7(b)(3). For the PHC determinations it seems that these boundaries should be the same as there should be no changes to the topography outside the permit boundary. Please review and revise the watershed boundaries and the watershed/flow information provided in the tables in Section 2.9(a) as appropriate. (NDAC 69-05.2-05.02 and NDAC 69-05.2-08-04(3)) (RLK)
39. The Postmine Peak Flow Calculations table in the Section 2.9(a) narrative does not include information for the Southwest Drainage Area depicted on premine drainages map, Section 2.7.5(A), but the Post Mining Contours, Section 4.2.7(b)(3), indicates this watershed will be affected by mining. Please revise the information as appropriate. (NDAC 69-05.2-05.02 and NDAC 69-05.2-08-04(3)) (RLK)
40. It is not clear how or why the East Drainage Area and Southeast Drainage Area are separated on the Premine Drainages map, Section 2.7.5(A) and the premine peak flow table in Section 2.9(a) since the dividing line between the watersheds crosses the bottom of a swale or basin and the east drainage area will ultimately drain to the southeast drainage area. Also the southeast drainage is absent on the post mining contours map and flow calculation table. Please review and revise as appropriate. (NDAC 69-05.2-05.02 and NDAC 69-05.2-08-04(3)) (RLK)

Section 3.1 – Operation Plan – General

41. The backfilling calculation table for the Perkins Mine Area, Section 3.1.5(b), is the Revision 6 version dated 2/08 while the filing instructions indicates this section was to have been updated with Revision 8. Please update as appropriate. (RLK)
42. Please include the permit boundary on the Pit Layout and Facilities Map, Section 3.1.3(c). (GAW)
43. Section 3.1.3(c) is labeled as the “Mining Map” in the map legend but is listed as the Pit Layout and Facilities Map in the Permit table of contents. Please label and refer to the map in a consistent manner. (GAW)
44. The narratives for Pits N6, N7, N8, S6, S7, S8 and S9 in Section 4.1.5(c) mentions that these pits will be backfilled using material from an “OVB Borrow Area”. Please revise Section 3.1, Operation Plan, to discuss the OVB Borrow Areas and show these “borrow areas” on the Pit Layout and Facilities Map, Section 3.1.3(c). A thorough justification will be needed if these borrow areas are located on lands where coal is not removed for compliance with NDAC 69-05.2-13-05 which requires minimizing disturbances on lands where coal is not removed. (GAW)
45. Please revise the Pit Layout and Facilities Map, Section 3.1.3(c), to show all access trails and corridors that will be used as corridors to transport spoil and SPGM in the permit area. For example, show the access corridor that will be used to haul spoil from Temporary Pile No. 1 to Pits N5, N6, N7 and N8 if Pits N1, N2 and N3 are going to be reclaimed by the dates listed in Section 4.1.7(b)(1). It appears that access corridors will need to be left open across Pits N1 and N2 and these features (access roads) should be shown on the Pit Layout and Facilities Map. (GAW)

Section 3.2 - Existing Structures

46. Please make the following changes to Section 3.2(a), Existing Structures Map, for clarity. (ZAT)
 - a) In the NW1/4 of Section 35, please clarify what the light blue ovals represent. If the ovals with zigzag lines are areas disturbed prior to 1971 Law, please change the color to black to be consistent with the legend.
 - b) Please review all labels on the map. Change the font color, style and/or size to make all labels legible when viewed at 100%. Currently, some labels are not legible at 100% and are run together at 200%. The font for underground bunker, abandoned house/shed and electrical sub-station is an acceptable font and size, but should be a more visible color.
 - c) Please use a more visible color and increase the font size of section numbers. The section numbers should be legible at 100%.
 - d) In the NE1/4 of Section 35, please clarify if the power lines end or continue to the north. Also, please use one color consistently for power lines on the map. We suggest using the dark blue since purple is used for the half-mile buffer line.
 - e) Please use black for the US Highway 12 label.
47. Please clarify if there is a culvert under the public road located below the sediment pond that will be constructed in the southeast corner of Tract 1 and show this feature on the Existing Structures

Map. Please also discuss if this culvert is sufficient to handle expected runoff events in the Water Management section of the permit. (GAW)

48. Please correct the direction reference for the bunker and abandoned house that appear to be north-northwest of the Tompkins Mine on the existing structures map rather than northeast as currently described in the narrative. (WTG)

Section 3.4 – Air Quality

49. Please revise Section 3.4.1, Fugitive Dust Control Plan, to clarify if the truck box will be covered to ensure leonardite does not blow out when being transported to the processing plant and specifically provide a fugitive dust control plan for County or Township Road 127th Ave SW. (GAW)

Section 3.5 – Transportation Facilities

50. Please consider using a more visible color than light yellow/green for mine haul roads on the Transportation Facilities Map, Section 3.5.2, so the haul road is easily visible when viewed at 100%. (ZAT)

Section 3.6 – Surface Water Management

51. The labels for the sample locations depicted on the Water Well/Stormwater Location Map, Section 3.6.2, are not legible. Please adjust the font size and/or color for the labels as appropriate. (RLK)
52. Please adjust the color and/or line weight for the watershed boundaries depicted on the Water Well/Stormwater Location Map, Section 3.6.2, to clearly distinguish the watershed boundaries from the contour lines. (RLK)
53. Please revise Section 3.6 as necessary, to show the entire watershed boundaries including the area adjacent to the proposed permit boundary as required by NDAC 69-05.2-9-09. A map, Figure 4, Drainage Basins, in Section 3.6.1(c), shows the watersheds within the permit boundary but it is not clear how runoff will flow beyond the pond that is to be located on the north side of the permit and it appears that water may pond in this area. (GAW)
54. Please revise the Surface Water Management section of the Tompkins Mine Area to explain how water is going to flow to the north pond. The topographic map, Figure 3 of Section 3.6.1(c), shows that water will flow from the SPGM stockpiles located in the northwest part of the permit area to the closed depression rather than to the north pond. Please revise Figure 3 of Section 3.6.1(c), or include a separate surface water management map, that shows where diversions will be placed to direct runoff to water management features. Please also revise the map to show all water management features that will be needed including silt fences, sumps, stripped drainageways and diversions that will need to be installed. Obviously, the haulroad ditches will be stripped of SPGM but it is not clear if these ditches will be used for water management purposes. Please provide more clarity. (NDAC 69-05.2-09-02(5)) (GAW)

Section 4.1 - Post-Mining Land Use and Revegetation

55. On the Post Mining Land Use Map, Section 4.1.2(c), please remove the Native label in the SW1/4SE1/4 of Section 35 that is incorrectly located on cropland. Also, please increase the font size of the labels so that they are legible at the print scale. (ZAT, GAW)
56. Section 4.1.3, Seed Mixes, indicates that revegetation will be initiated with wheat and Section 4.1.5(c) states that SPGM will be seeded immediately once redistribution is complete but the Reclamation Schedule Variance, Section 4.1.7(b)(1), states that seeding will occur annually in October of each year. Please clarify if winter wheat will be used to initiate the 10-year revegetation period given the time of the year planting is planned and revise Section 4.1.5(c) to clarify if rock picking will be necessary prior to initiating revegetation. To comply with NDAC 69-05.2-22-04, please rephrase discussion in Section 4.1.5(c) to state that seeding will be done during the first normal period for favorable planting conditions after suitable plant growth materials have been spread. (GAW, ZAT)
57. Please revise the second sentence to comply with NDAC 69-05.2-22-05 by changing may be to will be. The second sentence should read, "Straw mulch and crimping will be utilized in the event that seeding is delayed or as an additional soil stabilization measure until vegetation cover is established. (ZAT)
58. The first paragraph of Section 4.1.5(c) states that "redistributed spoil will be regarded to approximate the contours of the surrounding topography. Please change the word "regarded" to "re-graded" if that is what is meant and consider revising to state that the area will be re-graded to approximate original contour rather than to the surrounding topography. (GAW)
59. The third paragraph on page 1 of Section 4.1.5(c) states that 5.83 acres of native grassland will be converted to cropland. First, it is not appropriate to change the land use on lands that will not be disturbed by mining activities and the Pit Layout and Facilities Map indicates that only about 1.8 acres of native grassland will be affected by mining activities. Second, most of the native grassland that is to be affected by mining activities will not be actually mined (associated disturbance) thus the topography will not be altered and some of this area is too steep (13.5% slope) to accommodate the proposed land use change. The Reclamation Division believes that cropland is not suited on areas with slopes greater than 9 percent and that these steeply sloping areas should be managed as perennial hayland, tame pastureland, or native grassland. Please review and revise to meet the alternative post-mining criteria listed in NDAC 69-05.2-23-03(3)(a). (GAW)
60. Please revise the third paragraph on page 1 of Section 4.1.5(c) to include reference to a perennial grass seed mixture that will be seeded on pre-mine native grassland areas that are too steep to accommodate annual tillage and include this seed mixture in Section 4.1.3 as required by NDAC 69-05.2-09-11(6). (GAW)
61. Please review the mining sequence narratives that begin on page 1 of Section 4.1.5(c) to ensure that what is written is consistent with what is shown on the Pit Layout and Facilities Map, Section 3.1.3(c), Section 4.1.7(b)(1), Variance Request, and Section 4.2.2(c), Reclamation Schedule. For example, the narrative states that Pits N2 and N3 will be opened in the spring of 2017 and 2019, respectively, but the map shows these pits being mined in 2016 and 2017. Please review and correct as necessary. (GAW, ZAT)

62. Please revise Section 4.1.5(c) to include a description that includes information adequate to predict the potential for re-establishing vegetation on all areas to be disturbed as required by NDAC 69-05.2-08-08(4). This should include approximate average topsoil and subsoil respread depths. (GAW)
63. Please revise the grading plan in Section 4.1.5(c) to explain how prime farmland soils will be reclaimed in the locations as shown on Section 4.2.7(b)(3) when the grading sequence plan states that soil from non-farmland pits will be respread on pits where prime farmland is to be respread. It is recommended that the prime farmland soils be respread in a single block in a suitable location rather than where it existed prior to mining. (GAW)
64. Please review the narrative of Section 4.1.6(c) which states standards of 32 bushels/acre on prime cropland and 17.9 bushels/acre on nonprime cropland have been established. It appears that 17.9 bu/ac was a copy/paste error and the correct nonprime standard is likely 21.4 bu/ac, as stated in Section 2.7.4(d). However, it may be premature to establish an unadjusted cropland standard prior to knowing the actual disturbance boundary. It is recommended that some language be added to the narrative stating that this value will be re-evaluated after the disturbance boundaries have been determined. Please correct as appropriate. (ZAT, GAW)
65. The narrative on page 1 of Section 4.1.6(c) states that a cropland control area will be established in the S1/2 of Section 2 on appropriate soil types. Cropland control areas must be managed the same (same operator) as the reclaimed area that it is intended to represent. Please clarify if one operator will be farming both tracts. (GAW)
66. Section 4.1 7(b)(1), Reclamation Schedule Variance, indicates that Pits N6, N7, N8, S6, S7 and S8 and S9 will be backfilled and graded using material from a borrow area. Please provide further explanation and details for this borrow area. (GAW)

Section 4.2 – Reclamation General

67. Please review the Requested 3 Year Variance column on the Reclamation Schedule Section 4.2.2(c) as the dates listed are less than 3 years and would not require a variance. It appears the variance information provided for Pits N1, N2, N7, S1 and S8 is not consistent with the information provided in the Variance Request Section 4.1.7(b)(1). (ZAT)
68. Please revise the seeding narrative for the north and south sequences in Section 4.2.2(c) to comply with NDAC 69-05.2-22-04. Currently, the permit states seeding is scheduled to be completed in the fall with the rest of the cropland. Please rephrase this sentence to state that seeding will be done during the first normal period for favorable planting conditions after suitable plant growth materials have been respread as required by NDAC 69-05.2-22-04. (ZAT)
69. The first sentence in Section 4.2.4 states that *“The following reclamation costs are estimated using the July 2012 Appendix to the October, 1998 Reclamation Cost Estimating Guidelines”* and should be revised to state the following; *“The reclamation cost estimate has been developed using the latest Reclamation Cost Estimating Guidelines and the 2013 Variable Cost Updates For Policy Memorandum No. 16.”* Please revise the statement. (FSE)

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70. The post-mine contours depicted on the post-mining contour map and post mining slope map for the Tompkins Mine Area, Section 4.2.7(b)(3) and Section 4.2.8(b)(3), depict terrain modification disturbance well beyond the extent of the mine pits depicted for the Tompkins Mine Area on the Grading Sequence Map, Section 4.2.3(c) and the Pit Layout and Facilities Map, Section 3.1.3(c). The extent of changes in the proposed post-mining topography is not supported by any other information in the permit for the Tompkins area. There is no mention of borrow areas or scheduled grading for areas outside of the proposed pit sequence in Section 4.2.1, Reclamation Procedures Narrative or Section 4.2.2(c), Reclamation Schedule. Please revise the post-mine contour for the Tompkins area to reflect the proposed mine pit sequence or provide an explanation and supporting documentation for the extent of terrain modification depicted on the post mining contour map. The Post Mining Contours Map also shows the watershed boundary north of the permit boundary draining to the south while the Pre-Mining Contours map, Section 4.2.7(a)(3) shows this area draining towards the north. Please review and revise as necessary. (NDAC 69-05.2-05.02 and NDAC 69-05.2-09-02) (RLK, GAW)
71. Section 4.2.3(c), Grading Sequence Maps, appears nearly identical to the Pit Layout and Facilities Map, Section 3.1.3(c). Please review and revise to clarify what the difference is or the purpose of these two maps. (GAW)
72. As required by NDAC 69-05.2-09-15(4), please depict the potential prime farmland respread area(s) on Section 4.2.7(b)(3) Post Mining Contours. This map currently depicts the NRCS prime farmland soil map units that should be removed because they are depicted on Section 2.8.4(c) Prime Farmland Map. As required by NDAC 69-05.2-26-04(1), the prime farmland suitable plant growth materials must be respread over mined areas that have a landscape configuration similar to that which existed in the prime farmland areas prior to mining. Although the prime farmland respread acreage should be contiguous to the extent possible, more than one potential respread area could be depicted on the map if the mining sequence requires that the prime farmland acreage be respread in separate areas. (WTG)

Also, attached are copies of letters we have received on the application from advisory committee members.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

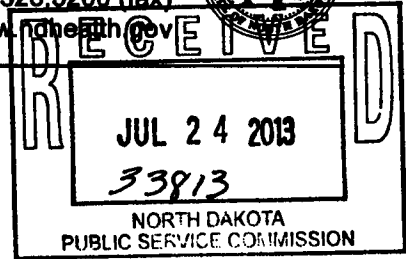
cc: Bowman County Auditor

Attachments (copies of letter from State Historical Society, Water Commission, US Fish & Wildlife, and Health Dept.)



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov



July 22, 2013

Mr. James Deutsch
Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

RE: Revision 7 to Permit ACPG-9701

Dear Mr. Deutsch:

We have reviewed American Colloid Company's application for revision number 7 to Surface Coal Mining Permit ACPG-9701. This revision seeks to add 149.28 acres in the SE1/4 of Section 35, T131N, R99W of Bowman County to be identified as Tompkins Mine Area.

Upon review, it was noted that 2 sediment ponds will be installed to control erosion and runoff. Once the ponds are constructed, they will be assigned discharge point numbers and added to the company's NDPDES permit.

At this time, the Department has no additional comments regarding this revision.

Sincerely,

Luci Snowden
Environmental Scientist
Division of Water Quality

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

9701
JUN - 7 2013
33753

Jack Dalrymple
Governor of North Dakota

June 6, 2013

**North Dakota
State Historical Board**

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Valley City - President

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Merlan E. Paaverud, Jr.
Director

*Accredited by the
American Association
of Museums since 1989*

Mr. James R. Deutsch
Director
Reclamation Division
Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**NDSHPO REF. 09-1023a PSC American Colloid Company
T131N R99W SE1/4, Section 35, Bowman County
Permit ACPG-9701 Tompkins Mine Area**

Dear Jim:

We have received project correspondence and documentation regarding 09-1023a PSC "American Colloid Company, T131N R99W SE1/4, Section 35, Bowman County, Permit ACPG-9701 Tompkins Mine Area," and find it acceptable. Our records indicate that the parcel was surveyed for cultural resources in 1981.

If you have questions please contact either Paul Picha at (701) 328-3574 or Susan Quinnell at (701) 328-3576.

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and
Director, State Historical Society of North Dakota



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

JUN 20 2013

33767

WATER APPROPRIATION DIVISION
(701) 328-2754

June 18, 2013

Mr. James R. Deutsch, Director
Reclamation Division
Public Service Commission
State Capitol Building
Bismarck, ND 58505

Dear Mr. Deutsch:

In a June 3, 2013, letter you requested a review of American Colloid Company's application for Revision No. 7 to Permit ACPG-9701. The application proposes to mine Leonardite in the Tompkins Mine Area, located three miles east of Gascoyne in the SE1/4 of Section 35, Fischbein Township (T. 131 R. 099). The Leonardite to be mined is the Harmon lignite bed where it occurs above the water table and is partially oxidized. The Leonardite in the Tompkins area is about five to ten feet thick with a clay parting and occurs below about ten feet of overburden, plus or minus.

American Colloid Company's Page and Perkins mine areas were reviewed in letters dated December 3, 1997, and August 24, 2005. Like the Page and Perkins mine areas, the Leonardite in the Tompkins Mine Area is in the unsaturated zone. It therefore seems reasonable to not require groundwater monitoring. Groundwater has been monitored in the past in wells to the north and west of the Tompkins Mine Area, in association with mining of the Harmon Bed in the Gascoyne Mine.

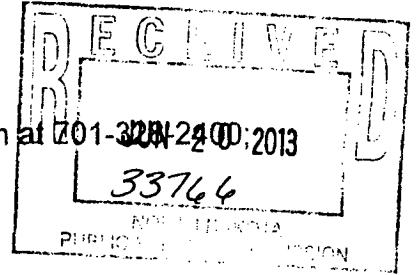
Although brief, given that no groundwater monitoring is planned, the information presented regarding the groundwater aspects of the planned Tompkins Mine Area are satisfactory to this reviewer.

Sincerely,


Alan Wanek
Hydrologist Manager

AW:/1687.28

For more information you may contact the Public Service Commission at 701-328-2400:2013
or Relay North Dakota 1-800-366-6888 TTY.



PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner


Brian P. Kalk
Chairman


Julie Fedorchak
Commissioner

U.S. FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
ND FIELD OFFICE

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.

6-18-13 
Date Jeffrey K. Dowman
District Engineer

