

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Fedorchak, Christmann and Kalk
Darrell Nitschke, Executive Secretary
Illona Jeffcoat-Sacco, General Counsel

FROM: *JH* Jim Deutsch, *DKM* Dean Moos and *BB* Bruce Beechie

DATE: April 1, 2015

SUBJECT: Application for Revision No. 7 to Permit No. ACPG-9701 held by the American Colloid Company, Case No. RC-10-670

On December 27, 2010, American Colloid Company (ACC) filed the application for Revision No. 7 to Permit ACPG-9701 to add 149.28 acres to this permit for the Page leonardite mine. The added acreage is located in the SE1/4 of Section 35, T131N, R99W, Bowman County. The permit revision updates mining and reclamation plans and baseline data for the additional area. The Reclamation Division has completed its review of this revision and respectfully recommends that it be conditionally approved.

The area being added to the permit is located one half mile north of the existing mine and is situated adjacent to, and north of U.S. Highway 12. The addition of 149.28 acres to the existing permit will allow mining of a new pit sequence known as the Tompkins Mine Area. The new mine area will consist of two separate pit sequences within the area being added to the permit. American Colloid plans to remove topsoil and subsoil and begin overburden and leonardite removal operations at the Tompkins Mine Area in June, 2015 to meet production demands. Soil and overburden will be removed and transported with tractor scrapers. Construction of two sedimentation (evaporation) ponds is also planned to begin in June, 2015. Leonardite removal is expected to be completed from the Tompkins Mine Area by 2022 and final reclamation is expected to be completed by 2024.

Two new haulroads will be constructed within the area being added to the permit. Haulage of leonardite from the new mine area to the processing plant will be along a ¼ mile length of Township Road 127th Ave. SW traversing south to U.S. Highway 12 and then 2 miles west along U.S. Highway 12 to the turnoff heading south into the ACC processing plant that is located in the SE1/4 of Section 3, T130N, R99W. A Road Use Permit to allow ACC and contractors to conduct leonardite hauling on 127th Avenue SW was approved by Fischbein Township in 2013 and a permit for mine disturbance within 100 feet of 127th Ave. SW was also approved by Fischbein Township in 2013. The south boundary of the area being added to the permit is located on the north right-of-way of US Highway 12. Although no disturbance is planned within 100 feet of the highway right-of-way, a special condition is being attached to the revision

approval to prohibit any mining related disturbances within 100 feet of the outside right-of-way of US Highway 12 without the approval of the road authority.

With the added acreage, the total permit area will now be 656.72 acres. Mining and reclamation procedures will be similar to those presently approved in the permit. The premining land use of the lands that will be disturbed in the added area is predominantly cropland. A small tract of native grassland of about 5.8 acres in size is located in the southwest corner of the area being added to the permit, and a temporary wetland classified as Class I Ephemeral that is currently being farmed through and encompassing only about 1/2 acres in size is located in the southeast corner of the area being added to the permit. In compliance with the landowner preference statement, the postmine land use of all areas that will be disturbed by American Colloid is cropland.

The two proposed sediment ponds at the Tompkins Mine Area are designed to be total containment or "evaporation" ponds and off-permit discharge of collected surface water and/or pit water from the ponds is not anticipated. However, usage of the pond water for dust suppression within the permit area is anticipated, therefore, ACC must apply for, and keep current, a temporary (issued every 12 months) water use permit from the Water Appropriations Division of the State Water Commission if usage of sediment pond water for dust suppression or other beneficial uses is conducted.

With regard to the reclamation schedule, the applicant has requested variances from the contemporaneous reclamation requirements that normally require rough grading to be completed within 180 days of coal removal, NDAC 69-05.2-21-01(2), and that all reclamation efforts through the initial seeding be completed within three years of completion of mining activities, NDCC 38-14.1-24(14). The requested variances described in the application are related to safety issues and the order of stripping and backfilling equipment operations in conjunction with leonardite hauling operations. The requested variances from the 180-day grading and three-year seeding requirements are justified and we recommend approval by the Commission as allowed by NDAC 69-05.2-21-01(2) and NDCC 38-14.1-24(14).

Revision No. 7 was deemed a significant revision to Permit No. ACPG-9701 and subject to the public notice requirements. ACC submitted affidavits of publication of the required newspaper notices. We notified the appropriate agencies, affected landowners, and advisory committee members of the revision application. We received no objections or requests for informal conferences on this revision application.

The Reclamation Division determined that the worst-case reclamation bond cost estimate for this permit area (including the area being added to the permit) is \$875,334. ACC currently has on file a surety bond in the amount of \$1,092,445 which is adequate coverage at this time and includes the Tompkins Mine Area acreage added with this revision.

Attached for your consideration is the proposed motion, revision approval form that includes the required findings, the permit condition and newspaper notice that must be published following revision approval.

Attachments