



# Public Service Commission

## State of North Dakota

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February 25, 2013

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

Dear Ms. Smith:

The Reclamation Division has conducted a technical review of the application for Revision No. 8 to Surface Mining Permit ACPG-9701, which was submitted in response to a pre-renewal review of the permit. The following items will need to be adequately addressed or corrected prior to revision approval:

### **General**

1. At the bottom of the listing of subsections in Sections 1.0, 2.0, 3.0, and 4.0 there is a link that is provided to take the reader "[Back to Main Directory](#)"; however, none of these links work. Please attempt to repair the links. (BEB)

### **Section 1.5 – Identification of Interests and Right of Entry**

2. Please review and correct or explain the following inconsistencies between the Surface Ownership Map 1.5.3(a) and Section 1.5.2(a), Adjacent Surface Ownership. (ZAT)
  - a. The surface ownership for Tracts I and J is listed as Jacinda Hestekin on the Map 1.5.3(a) and it is listed as Jay Hestekin in Section 1.5.2(a).
  - b. The surface ownership for Tract K is listed as Rudolph and Cecilia Hirsh on the Map 1.5.3(a) and it is listed as Rudolph Hirsh Trust in Section 1.5.2(a).
  - c. The surface ownership for Tract O is listed as Donald Wanek on the Map 1.5.3(a) and it is listed as Agnes Wanek in Section 1.5.2(a).
  - d. The surface ownership for Tract D is listed as Brian McCollum on Map 1.5.3(a) and it is listed as Kris Tufto in Section 1.5.2(a).

- e. Please place the tract numbers/letters on the Surface Ownership Map Section 1.5.3(a) to facilitate cross-referencing the surface ownership information.
3. Please review and correct or explain the following inconsistencies between the Mineral Ownership Map 1.5.3(B) and Section 1.5.2(b), Adjacent Mineral Ownership. (ZAT)
    - a. The mineral ownership for Tract C is listed as Robert and Myrtice Perkins (50%) and Gordon Thompson ETAL (50%) on Map 1.5.3(b) and it is listed as Robert and Myrtice Perkins (50%) and Ackerson Family Trust (50%) in Section 1.5.2(b).
    - b. Please list the names for Cragh H. and Karment K. Eslinger in the same manner on the Mineral Map 1.5.3(b) and in Section 1.5.2(b) (first names of each is spelled differently). Please add middle initials to the names in Section 1.5.2(b).
    - c. Please correct the spelling of Salvation Army on the Mineral Ownership Map 1.5.3(B) in Tracts L and M.

### **Section 2.0 – Environmental Resource Information**

4. Please update the Ground Water Narrative at the bottom of Page 4 of Section 2.2.2 because this paragraph describes that impoundments or dikes are not required to control surface water at the mine. In addition to surface water being controlled by the active pits, please describe that surface drainage is also controlled by constructed diversions and two sediment ponds at the Perkins Mine. Also, located a couple of paragraphs into Page 5 is a stand-alone sentence that states that “*No proposed discharges are expected*”. We’re unsure what the statement is in reference to or if it’s relevant to the permit, but it appears that the sentence could either be revised or deleted from the permit nonetheless. Please update the narrative as described. (BEB)

### **Section 3.6 – Surface Water Management**

5. Please repair or activate the hyperlink to the Section 3.6.6(a) – NDPDES Permit (Page & Perkins Mine Area) provided on the Table of Contents for Section 3.6. (RLK)

### **Section 4.0 – Reclamation Plans**

6. Please review Sections 3.1.1 and 4.1.5a for minor grammatical errors. Examples from page one are listed below and underlined. Similar minor errors were noted on pages 2-3. (ZAT)
  - a. At the bottom of page one in Section 4.1.1a, Post Mining Land Use Narrative, please revise the beginning of the last sentence to read, “The cropland will continue to be evaluated...”
  - b. Please revise the first sentence in Section 4.1.5(a) under the heading North Sequence (B) to read, “Reclamation of the north sequence was completed as mining progressed.”
  - c. Please revise the Pit B-1 (ACC Pit # G-2-98) paragraph in Section 4.1.5(a). Please revise the added sentence as follows and move it to the end of the paragraph to keep

the narrative in chronological order. Respread was completed in May 2004 and seeding was completed in May 2007.

- d. Please change the word seeding to seeding was completed in the revised text added to the Pit B-2 (ACC Pit # G-1-00) paragraph in Section 4.1.5a.
7. Since winter is not a normal period for favorable planting in ND, please review and revise the 2013 winter cropland seeding scheduled for Pits A-1, A-2, A-3, A-4 and A-5 in Section 4.1.5b. The seeding dates will also need to be updated in the Variance Request chart in Section 4.1.7(a)(1) and on the Reclamation Schedule in Section 4.2.2(b). (ZAT)
8. In Section 4.1.5b if appropriate, please review the reclamation schedule for Pit A-8. SPGM respread is scheduled for the summer of 2014, but seeding is scheduled for the fall of 2015. NDAC 69-05.2-22-04 requires seeding of disturbed areas to be conducted during the first normal period for favorable planting conditions after suitable plant growth materials have been respread. Please explain why a fall 2014 or spring 2015 seeding is not planned. The reclamation schedule in Section 4.2.2(b) will also need to be updated if changes are made to Section 4.1.5b. (ZAT)
9. Please review and revise the backfilling narrative for Pit B-5 on page 3 of Section 4.1.5b. It appears the dates need updating and the narrative should be clarified. (ZAT)
10. Please review the second paragraph on page 4 in Section 4.1.5b. The title, North Sequence (C), is inconsistent with the first sentence which refers to the south sequence. Please correct as necessary. (ZAT)
11. Please review the spring 2013 seeding date for Pit C-1 on page 4 in Section 4.1.5b. This appears to be a typographical error since the Reclamation Schedule in Section 4.2.2b indicates a seeding date of 05/14. (ZAT)
12. The reclamation schedule for Pit C-3 should be reviewed in Section 4.1.5b, which states Leonardite removal is scheduled to be completed by the winter of 2013 and backfilling is scheduled to be completed in the winter of 2014. It appears Pit C-3 will exceed the 180 day requirements of NDAC 69-05.2-21-01 and should be added to the Variance Request chart in Section 4.1.7(a)(1) with the appropriate justification for the variance, if a variance is necessary. (ZAT)
13. If ACC intends to do dormant seeding after September 15 as indicated in the Reclamation Schedule in Section 4.2.2(b), the narratives in Section 4.1.5b should be updated. Please review the final pit narratives, which indicate a spring seeding, and any narrative that indicates seeding will be completed with the rest of the cropland. (ZAT)

Currently, Revision No. 7 to Permit ACPG-9701 is under review by the Reclamation Division to add approximately 150 acres of land to the permit in Section 35 (Tompkins Mine Area). Due to proposed acreage being added to the Permit with Revision No. 7, it will be necessary that the reclamation cost estimate for bonding be updated when Revision 7 changes are incorporated into

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the permit. No changes to the cost estimate or bond amount are necessary at this time with Revision No. 8.

Please respond to this letter in a timely fashion so that the revision and renewal can be processed prior to the April 22, 2013 expiration of the current permit term.

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 fluid and cursive, with a large initial "J" and "D".

James R. Deutsch  
Director  
Reclamation Division