



AMERICAN COLLOID COMPANY

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



March 18, 2013

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

RE: Round 1 Technical Review Comment Response for Revision 8/Renewal 3 of American Colloid Company's Leonardite Permit ACPG-9701 near Gascoyne, ND.

Dear Mr. Deutsch:

Please find enclosed three CDs providing electronic files of our response to the Public Service Commission's Round 1 Technical Review comments for Permit ACPG-9701 Revision 8/Renewal 3. The PSC comments and a summary of our response are included as an attachment to this letter.

Completeness modifications are identified in the document in red text, while Round 1 comment response to the Technical Review is provided as yellow highlight. A pencil icon is used to identify html links that include modified text to avoid the problems with highlight not showing up on printed sheets.

Revision 7 of this permit (Tompkins Amendment) is in progress and is not considered in Revision 8 per the Commission's directive. In certain areas where Revision 7 placeholders were required to prevent gaps in file nomenclature the revision is identified as "Pending".

We look forward to your review and comment. If you have any questions, please feel free to contact me at (605) 892-7178 or melody.smith@colloid.com.

Sincerely,

Permitting Specialist
American Colloid Company

Attachment

Ms. Melody Smith
February 25, 2013
Page 2 of 6

(Comment letter from PSC and summary of ACC's responses. Letterhead logos and headings are not included in the PSC Word file).

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).

Tract I is identified on both documents as owned by Jay Hestekin and Tract J is identified on both as owned by Jacinda Hestekin.
 - 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).

Map 1.5.3a has been updated to reflect ownership by Rudolph Hirsh Trust.
 - 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).

Section 1.5.2(a) has been updated to reflect ownership by Donald Wanek.

- 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).

Section 1.5.2(a) has been updated to reflect ownership by Brian McCollum.

- 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.

Completed as requested.

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).

Section 1.5.2(b) has been modified to reflect Gordon Thompson et al. ownership.

- 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).

Tract D on Map 1.5.3(b) has been revised to reflect Craig H. and Karment K. Eslinger and middle initials have been added to Tract D of 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.

Completed as requested.

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)

Completed as requested.

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)

Completed as requested.

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.

a-d: Completed as requested.

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)

General information from each subsection was moved to the beginning of Section 4.1.5(b) and the following was added: “*Note that seeding dates are not presented below, as they are dependent upon ground conditions following respread completion. Predicted dates are included in the table in Section 4.4.2(b).*” Seeding dates were removed from each subsection and replaced by “...first normal period for favorable planting conditions after suitable plant growth materials have been respread. Fall seeding would be to winter wheat while spring seeding would be to spring wheat.”

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)

The text has been modified to reflect *the first normal period for favorable planting conditions after suitable plant growth materials have been respread. Fall seeding would be to winter wheat while spring seeding would be to spring wheat.*

The table in Section 4.2.2(b) has been modified to reflect fall 2014 seeding.

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)

The dates were reviewed and reflect those indicated in the table in Section 4.2.2(b). Text clarifications were made and the seeding schedule text was changed to *the first normal period for favorable planting conditions after suitable plant growth materials have been respread. Fall seeding would be to winter wheat while spring seeding would be to spring wheat.*

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)

This section of general information was moved to the beginning of the section and the subsection reference was removed in entirety.

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)

The seeding date reflected in the table in Section 4.2.2(b) is correct. Seeding dates have been removed from Section 4.1.5(b) and replaced with *the first normal period for favorable planting conditions after suitable plant growth materials have been respread. Fall seeding would be to winter wheat while spring seeding would be to spring wheat.*

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)

Text has been clarified to identify which months are referenced. Removal is scheduled for December 2013 while backfilling is scheduled for January 2014 for a 31-day time period.

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)

Seeding dates have been removed from Section 4.1.5(b) and replaced with *the first normal period for favorable planting conditions after suitable plant growth materials have been respread. Fall seeding would be to winter wheat while spring seeding would be to spring wheat.*

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 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,

James R. Deutsch
Director
Reclamation Division