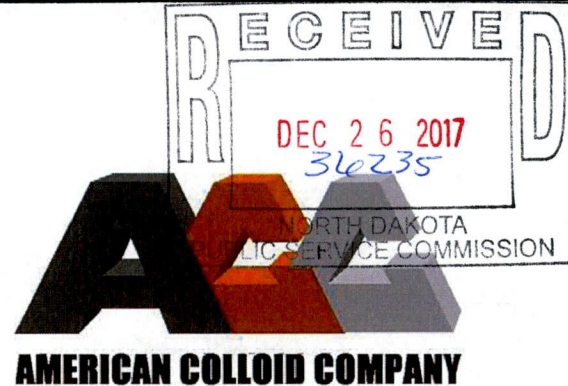


December 20, 2017

Mr. Dean Moos  
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: Permit ACPG-9701 Revision 10 (Renewal) - Response to Comments dated 10/12/2017.**

Dear Mr. Moos:

Please find enclosed two CDs providing an electronic file of American Colloid Company's (ACC's) Permit ACPG-9701 *Revision 10 – Permit Renewal* in response to comments from the PSC dated October 12, 2017. Per those comments, this document must be filed on or before December 21, 2017 and will be considered a significant revision subject to public notice requirements.

**Section 1.0 – Introductory, Legal, Financial, Compliance and Related Information**

1. Please update the Newspaper Notice information in Section 1.2.4(e)(2) to change the spelling of the Dickenson Press to the Dickinson Press. (BEB)

*The TOC for Section 1.2.4 was updated to reflect the proper spelling of Dickinson.*

2. Please update the Certificate of Liability Insurance in Section 1.2.5 as this form indicates the policy expired on June 30, 2017. (BEB)

*Section 1.2.5 has been updated to reflect the current Certificate of Liability Insurance that expires 6/30/2018; Section 1.2.5(a) Cancellation Endorsement has also been updated to reflect the current Certificate of Liability.*

3. Please update Section 1.2.7, Filing With County Auditor, to also state that all significant revision applications (once deemed complete) and all approved revisions will be filed with the Bowman County Auditor. (BEB)

*Section 1.2.7 has been updated as requested.*

4. If changes have been made to American Colloid's or Minerals Technologies Inc. organizational structure, please update Section 1.3.1, Names of Officers, Directors, and Share Holders and Organizational Structure, as required by NDCC 38-14.1-14(1)(e). (BEB/RLK)

1 RC-17-487 Filed 12/26/2017 Pages: 8  
Revision application filed to update mining and  
reclamation plans for the next five-year permit term  
American Colloid Co.  
Melody Smith

*Section 1.3.1 has been updated to reflect the current corporate organizational structure as requested. Note that I legal counsel sent me the current list; in some cases title descriptions varied slightly but no legal change (term begin/end) occurred. Names were shifted as appropriate without strike through; if terms/official titles ended those names were moved to the bottom of the list with the new term/title added to the active body.*

5. Please review and update Section 1.3.2, Names of Other Mines. Information provided for the reclaimed Smith/Ullman Mine can be deleted from this permit section if you choose because the 5-year reporting period has expired since final bond release. In addition, if Minerals Technologies Inc. owns or has interest in other mining operations in the U.S., please provide that information in this section of the permit as required. (BEB)

*Section 1.3.2 has been updated as requested, with information provided in the format discussed with Bruce Beechie via email on November 22, 2017.*

6. Please review and update Section 1.3.5, Other Licenses and Permits, with any changes (especially expiration dates) which may have occurred since this table was last updated in 2014. Based on the information in the permit, it appears the ND State Health Department NDPDES permit has expired. (RLK/BEB)

*Section 1.3.5 has been revised as requested.*

7. Please update the permit and contiguous surface and subsurface coal ownership information (including mailing addresses) in Sections 1.5.1 and 1.5.2 as required by NDCC 38-14.1-14(1)(c) if any changes have occurred. Any changes to these sections will need to be reflected in the Surface Ownership and Mineral Ownership Maps in Sections 1.5.3(a) and 1.5.3(b), respectively. (RLK)

*Surface and mineral ownership listings and maps have been updated per an online courthouse records search as of 11/28/2017 and review of the most recent surface ownership booklet published by the courthouse.*

*Note: Mr. Perkins passed away and all surface and mineral ownership changed to Perkins Legacy. There is another pending ownership change (surface Page to ACC, mineral to Page) that will not be completed and recorded at the courthouse until February; this will be addressed in the next round of comments, assuming timing is appropriate.*

8. The surface and coal lease provided in Section 1.5.1 between ACC and Robert Perkins for the SE $\frac{1}{4}$ , SW $\frac{1}{4}$ , and a portion of the NW $\frac{1}{4}$  of Section 2 expired April 2, 2017. Please provide a certified copy of the new coal and surface lease as required by NDAC 69-05.2-06-03(1) and NDCC 38-18-06. (ZAB)

*The copy of the current (2017-2027) Perkins coal lease was provided in Section 1.5.1(d) and (e) (for Tracts II and III). Additionally, Mr. Perkins passed away and all Perkins surface and mineral is now under Perkins Legacy Corporation. The following have been modified to reflect this change:*

- *Section 1.5.1(c) Tract II, Perkins Ownership Summary*
- *Section 1.5.1(d) Tract II Perkins Lease*
- *Section 1.5.1(e) Tract III Perkins Lease Ownership Summary*
- *Section 1.5.1(f) Tract III Perkins Lease*
- *Section 1.5.1(i) Tract IV Perkins Right of Way Ownership Summary*
- *Section 1.5.1(j) Tract IV Perkins Right of Way Agreement*

*Note that the coal lease in Section 1.5.1(d) remains in Mr. Perkins name but is payable to Perkins Legacy Corporation.*

*The 2017 Perkins Scoria Purchase Agreement was added to the permit as Section 1.5.1(l), and references were added to Section 1.5.1 Surface Subsurface Interest, and to Sections 1.5.1(c)/(e)/(j) Perkins Ownership Summary (for each of the three referenced Tracts).*

*Section 1.5.1(a) Tract I Page Ownership Summary was also modified to reflect the latest review date.*

9. The Tompkins lease was executed on October 17, 2006 for a term of 8 years. According to Section 2, Term of Lease, the agreement may be extended in one year increments with 60 days written notice and an annual advanced payment of one thousand dollars to be applied to future mining as shown in paragraph 3(b) of Section 3, Manner of Payment, that states the royalty rate for surface damage and mineral production per ton. ACC has been sending Mr. Tompkins certified letters to notify him that ACC wishes to extend the agreement for an additional year and states the advance payment will be sent to Mr. Tompkins in January. Please add the certified letter and return receipt sent to Mr. Tompkins in 2016 to Section 1.5.1(k).

*The letters to Mr. Tompkins dated 12/6/2016 and October 24, 2017 have been added to Section 1.5.1(k).*

10. We strongly encourage ACC to pursue a 5 year lease with Mr. Tompkins since mining has begun and is expected to continue through 2026. However, if ACC intends to continue extending the lease in one year increments, Mr. Tompkins must be notified 60 days prior to the expiration date of the lease (October 17) and copies of the certified letter and the certified signed mail receipt must be submitted to the Reclamation Division prior to October 17<sup>th</sup> annually. (ZAB)

*Mr. Tompkins is not interested in a longer term lease. Annual lease extension notifications will be submitted to Mr. Tompkins and the PSC as requested unless/until a longer term lease is obtained.*

## **Section 2.2 – Ground Water Hydrology**

11. Please update the Sampled Well Summary in Section 2.2.2 of the Ground Water Narrative and update the Water Sampling Results Summary Table in Section 2.2.3 for wells LP#1, LP#2, LP#3, LP#4, LP#5, LP#6, LP#7, and LP#8 to provide the 5-year water quality sampling data as required in your approved ground water monitoring plan. (BEB)

*Section 2.2.2 Ground Water Narrative was updated to reflect 2017 groundwater sampling.*

*Section 2.2.3 Water Sampling Results Summary was updated to include 2017 surface and ground water sample analysis information.*

*Section 2.2.3(k) was added to provide 2017 sample laboratory reports for both surface and ground water.*

## **Section 3.1 – Operation Plan General**

12. Please update the mining plans in Section 3.0 and the Pit Layout and Facility Maps for the Perkins and Tompkins Mine Areas, to clearly identify the pits that will be mined during the next 5-year permit term. (BEB)

*Section 3.1.3(b) Pit Layout and Facilities Map for Perkins has been updated; mining is completed in the Perkins area.*

*Section 3.1.3(c) Pit Layout and Facilities Map for Tompkins has been updated: mining has been initiated in the Tompkins area and the mine plan has been modified. The existing pits are shown: a portion of Pit N1 was mined and then utilized as for a temporary overburden stockpile location.*

*Section 3.1.5(b) and Section 3.1.5(c) backfill calculations for Perkins and Tompkins have also been updated.*

13. As required by NDCC 38-14.1-14(1)(1), please update the list of equipment on page 2 of Section 3.1.1 if any changes have been made to your equipment inventory. (BEB)

*Section 3.1.1 has been updated.*

14. Please update Map 3.1.3(c) Pit Layout and Facilities Map for the Tomkins property to show the revised stockpile locations. Approval to modify the stockpile locations was granted to American Colloid by email on August 21, 2017. (BAJ/GAW)

*The map in Section 3.1.3(c) has been updated to reflect the stockpile change; other changes were also made to the mine plan (see Comment #12).*

15. Narrative for the North Pond on page 7 of Section 3.6.1(c) states that a spillway will be constructed through a berm on the south side of the pond. Please depict the location of the spillway on Figure 6 – North Pond Design Plan View. NDAC 69-05.2-09-09(2)(e) (BAJ)

*The Design indicated as Figure 6 in Section 3.1.6(c) does indicate a spillway on the south end of the North Pond; the berm is 2774-2775' and the spillway is at 2773'.*

*The As-Built Certification for the North Pond has been added to the permit as Section 3.6.1(c)(1). It varies slightly and the design but the capacity is slightly higher.*

*Section 3.6 Table of Contents was modified to include Section 3.6.1(c)(1).*

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

16. Please update Section 4.2.4, Worst Case Reclamation Costs using the 2017 Annual Update of Variable Costs. (BAJ)

*Section 4.2.4 has been updated to 2017 Variable Costs.*

17. Please review and update as necessary the Reclamation Schedule for the Perkins and Tompkins Mine Areas in Section 4.2.2, and review and update as necessary the Grading Sequence Maps for the Perkins and Tompkins Mine Areas in Section 4.2.3. The Reclamation Schedule indicates that SPGM will be respread on all pit areas except Pit C-3 by October of 2017. (BEB/GAW)

*Section 4.1.7(a) Variance Request (Page/Perkins) has been modified.*

*Section 4.1.7(b) Variance Request (Tompkins) has been modified.*

*Section 4.2.2(b) Perkins Reclamation Schedule has been updated.*

*Section 4.2.2(c) Tompkins Reclamation Schedule has been updated.*

*Section 4.2.3(b) Grading Sequence Map (Perkins) has been updated; no mining is planned for 2018 because the area is mined out. Two additional small C-4 polygons have been added to the N/NW of the primary C-4 pit to reflect the buried Knife River leanardite piles found while borrowing overburden.*

Mr. Dean Moos

12/20/2017

Page 6 of 6

*Section 4.2.3(c) Grading Sequence Map (Tompkins) has been updated*

18. As necessary, please update the Summary of Annual Activities Charts for the Perkins and Tompkins Mines in Sections 4.2.9(b) and 4.2.9(c). (BEB)

*Sections 4.2.9(b) and Section 4.2.9(c) have been updated.*

19. Please revise Section 4.1.6, Sampling Methods and Success Standards, for the Page Mine Area, Section 4.1.6(a) to include an unadjusted productivity standard for the reclaimed tract and clarify if hand sampling or whole field harvesting techniques will be used to demonstrate revegetation success. The Reclamation Division encourages the development of a cropland control area that could be used to demonstrate revegetation success. This entire tract has been reclaimed for at least 10-years and American Colloid should make plans to collect data to enable a demonstration of revegetation success. (GAW)

*Section 4.1.6(a) has been modified to reflect methodologies similar to those in the Perkins and Tompkins sections. Those sections do not specify which method (hand sampling or whole tract) will be utilized; that would be confirmed with PSC personnel during final coordination of the bond release sampling methodology at the time it is pursued.*

*ACC management has not yet committed to pursuing bond release on the Page Mine Area; the recommendation has been shared with management.*

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

Sincerely,



Melody Smith  
Environmental Specialist  
Performance Materials  
American Colloid Company  
Division of Mineral Technologies Company





**APPLICATION FOR REVISION OF PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS**  
 PUBLIC SERVICE COMMISSION  
 RECLAMATION DIVISION  
 SFN 10562 (1-2004)

**RECEIVED**  
 DEC 26 2017  
 36235

Date  
 December 18, 2017

Name of Company, Corporation, Partnership, or Individual American Colloid Company	Permit Number ACPG-9701	NORTH DAKOTA PUBLIC SERVICE COMMISSION	Revision Number 10
Address P.O. Box 2010	City Belle Fourche	State SD	Zip Code 57717

The above named hereby makes application for the above Revision Number to: (include a brief description of the surface coal mining and reclamation operation being revised).

Revision 10 is filed in response to the PSC Reclamation Division's October 12, 2017 permit review renewal comments for the purpose of renewing the permit and updating all applicable sections to include the mining and reclamation plans. Mining will continue from existing and planned pits with a cut and fill procedure.

Attached to this Permit Revision Application are a narrative describing the proposed permit revision, reasons for requesting the revision, and appropriate maps, cross-sections, graphs, construction details, revised reclamation plans and other data which demonstrate compliance with Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the permit conditions of the approved permit. If an incidental boundary revision involving an acreage adjustment is being requested as part of the permit revision application, the following information shall be included (attach a copy of a metes and bounds description):

NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
ADDRESS					
<b>TOTAL ACRES</b>					

Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ \_\_\_\_\_, is included with the revision application.

Name of Official Authorized to Represent the Applicant  
 Melody Smith

- I, the above named, certify that:
1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
  2. Information and documentation contained in the permit application affirmatively demonstrate that:
 

I hereby certify that the information provided in this application is true and correct to the best of my knowledge and belief.

    - a. The permit revision application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
    - b. Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit revision application;

- c. An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
  - d. The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
  - e. The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
  - f. The permit revision applicant has the legal right to surface mine the land for which this permit revision application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.
3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code; unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
4. The surface coal mining and reclamation operations contained in this permit revision application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

Signature of Official <i>Melody Smith</i>	Title Permitting Specialist
--	--------------------------------

VERIFICATION

I, Rodney Raber, being first and duly sworn, verify that the information contained in this Permit Revision Application is true and correct to the best of my knowledge and belief.

Signature of Official <i>Rodney Raber</i>	Title Gascoyne Mine Superintendent
--	---------------------------------------

STATE OF South Dakota  
COUNTY OF Butte )ss.

Subscribed and Sworn before me, this 18<sup>th</sup> day of December, 2017.



*Sara Vetter*  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 4-7-2022