

NOV 25 2022



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

November 22, 2022

Ms. Zanna Brinkman
 Director – Reclamation Division
 North Dakota Public Service Commission
 600 East Boulevard Ave.
 Bismarck, ND 58505-0480

**RE: Permit ACPG-9701 Renewal (Revision 12) Review Comment Response to PSC
 Comments Dated 8/24/2022.**

Dear Ms. Brinkman:

Please find enclosed **one thumb drive (encryption code ACCRev12)** providing an electronic file of American Colloid Company's (ACC's) *Permit ACPG-9701 Revision 12: Renewal and Revision*. This information is provided in response to renewal review comments from the PSC dated August 24, 2022 for the Revision 11 permit which will expire on April 22, 2023. Comment response must be filed by November 24, 2022.

Mining is still taking place in the permit area; therefore the revision is considered significant and will be subject to public notice requirements.

The following items need to be addressed prior to revision approval; a copy of the PSC comment and ACC's response (gray shaded) are provided below.

Section 1.0 – Introductory, Legal, financial, Compliance and Related Information

1. 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. If necessary, please provide certified copies of any new coal or surface leases as required by NDAC 69-05.2-06-03(1) and NDCC 38-18-06. (GAW/JAR/MJF)

Records search text was updated in Sections 1.5.1(a, c, e, and i). Tomkins annual lease information was updated in Section 1.5.1(k).

Surface and mineral ownership was updated in Sections 1.5.2(a,b) and 1.5.3(a, b).

No new coal or surface leases have been obtained; no permit modifications were made.

2. For compliance with NDCC 38-14.1-14(1)(k), please update Section 1.5.1(k), Tract V Tompkins Lease, with a 2023 lease agreement for the Tompkins property. NDCC 38-14.1-14(1) requires that the permit application include right-of-entry and mineral lease documentation and this information should be included in the permit at the beginning of the next renewal period. (GAW/MJF)
Section 1.5.1(k) Tract V Tompkins Lease annual renewal Notice of Intent information has been updated as requested.
3. Please update the Certificate of Liability Insurance in Section 1.2.5 as this form indicates the policy expired on June 30, 2022. (JAR/MJF)
Sections 1.2.5 Certificate of Liability Insurance and 1.2.5(a) Cancellation Endorsement have been updated with documents effective effective through June 30, 2023.
4. If changes have been made to American Colloid's or Minerals Technologies Inc.'s 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). (MJF/JAR)
Section 1.3.1 has been updated as appropriate.
5. Please review and update Section 1.3.2, Names of Other Mines. If Minerals Technologies Inc. owns or has an interest in other mining operations in the U.S., please provide that information in this section of the permit. (MJF/JAR)
Section 1.3.2 has been updated as appropriate.
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 2021. Please update the ND Department of Environmental Quality's address to 4201 Normandy Street, Bismarck, ND 58503-1324. Also, please update the ND State Water Commission to the ND Department of Water Resources. Based on the information in the permit, it appears the ND Department of Environmental Quality NDPDES permit has expired. (JAR/MJF)
Mailing addresses and agency department names have been updated in Section 1.3.5 as requested, along with NDPDES and Annual Temporary Water Report information.

Section 3.1 – Operations Plans

7. Please review the mining plans in Section 3.0 and the Pit Layout and Facility Map for the Tompkins Mine Area (Section 3.1.3(c)) to ensure the pits that will be mined during the next 5-year permit term are clearly identified. (GAW/MJF/JAR)
Section 3.1.3(c) has been updated as requested. Also see Comment #11.

8. 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. (MJF/JAR)
Section 3.1.1 has been updated as requested.
9. Please update the Backfilling Calculations in Section 3.1.5 for the Tompkins Mine Area to account for the next 5-year permit term. (MJF)
Section 3.1.5(b) and Section 3.1.5(c) have been updated as requested: note that on tables gray indicates added text and red indicates removed text, as use of shading and strikethrough are problematic in the manner they are to be used.
10. The legend/title block for map 3.1.3(a) - Pit Layout and Facilities Map (Page), specifies contour intervals of 5 feet, but the map contours are depicted in 10-foot intervals. Please correct this error. Also, please remove the sediment pond from this map and insert the date that revegetation was completed. (JAR)
Section 3.1.3(a) Pit Layout (Page Mine Area) has been updated to correct the map/title block contour reference discrepancy.

Additionally for the Perkins area: the ovb borrow area shown in Section 4.2.7(b)(2) Post Mine Contours has been added to Section 3.1.3(b) Mine Plan (Perkins), as this feature is referenced in Section 3.1.1 Operation Description Narrative.
11. Please update Map 3.1.3(c) - Pit Layout and Facilities Map (Tompkins), to show the equipment fueling station on the mine. Also, please remove or define the "2-Track" along the western border of the permit area. (JAR)
Map 3.1.3(c) Pit Layout and Facilities Map (Tompkins Mine Area) has been updated as requested: the 2-track is further defined as a field road and the equipment fueling station is added.
12. Please revise the Post Mining Land Use Map for the Perkins Mine Area, Section 4.1.2(b), to show the entire permit area and label the post mining land use(s) in Section 3. (GAW)
Section 4.1.2(b) has been revised to show mine plan area reclamation within permitted disturbance boundary (197 acres) to Cropland and the road right-of-way in Section 2 and the N1/2 of Section 2 (outside of the mine plan disturbance boundary) to Tame Pastureland (2 acres). The road currently in place has an approximate 20-foot wide surface.

Section 3.6.1 – Surface Water Management

13. Based on recently completed site inspections by the Reclamation Division, the discharge points and silt fence locations specified in the narrative and the table of

the Page Mine Area Surface Water Management section are no longer applicable. Please review and update accordingly the Page Mine Area Surface Water Management portion of this plan on page 1 of 4. Any changes will need to be reflected in the Pit Layout and Facilities Map in Section 3.1.3(c) to reflect those changes. (JAR)

14. The NDPDES permit in Section 3.6.6(a) expired on June 30, 2022. Please insert the current effective NDPDES permit. (JAR)
Section 3.6.6(a) has been updated as requested.

Section 4.0 – Reclamation Plans

15. The Post-Mining Land Use Narrative for the Perkins Mine Area, Section 4.1.1(b), states that the haul road in Sections 2 and 3 will remain as a final reclamation feature as indicated in Section 4.1.4(a), Landowner Post Mining Statement for the Page Mine which in turn references a Short Form Right of Way Agreement in Section 1.5.1(J). However, this road is not clearly depicted on the Post Mining Land Use Map, Section 4.1.2(b), and the lease agreement does not explicitly state that the haul road should be retained as a post-mining feature after it is no longer needed for mining purposes. Mr. and Mrs. Perkins' landowner preference statement dated January 20, 1998 in Section 4.1.4(a) states that the right of way agreement area (haul road) should be reclaimed to tame pastureland and that the Buffalo Creek tributary culverts in the road should remain as final reclamation features. Please review this issue and either revise the language in Section 4.1.1(b) to clarify that the haul road in Sections 2 and 3 will be reclaimed after it is no longer needed for mining purposes or update the Post Mining Land Use Map, Section 4.1.2(b) to clearly show this road as a permanent feature at proper scale and include a symbol for roads in the legend of the map. If this haulroad is to be retained as a permanent feature, a new landowner preference statement should be provided that clearly states that the haul road is to be retained as a permanent feature. Narrative in Section 4.1.1(b) indicates that the haul road in Sections 2 and 3 comprises 21.5 acres which correlates to a road that is approximately 143.5 feet wide, which does not represent the road that was constructed. (GAW)

Section 4.1.1(b) Post Mining Land Use text for the Perkins area has been revised.

Section 4.1.4(a) will be updated with a new landowner preference statement for retention of the road listed in the short form ROW as a farm access road with a graveled surface per November 2022 landowner discussions. Statement signatures are pending.

Tame grassland is not included in the approved seed mixes; ACC will seed Seed Mix C perennial grasses in road ditches to aid in weed and erosion control. Adjacent area vegetation will invade over time.

Section 4.1.2(b) map has been updated.

16. Please update Section 4.2.4 (Reclamation Costs) to include the 2021 variable costs. The backfilling, grading, and suitable plant growth material respread cost is \$1.20 per cubic yard and the seed prices have changed. Please refer to Policy Memorandum No. 16 to Mine Operators for guidance. Please note that Policy Memorandum 16 will be updated this fall and the variable cost of \$1.20 per cubic yard and seed prices are expected to increase. ACC will be required to use the new variable cost amounts. (JWE/ZAB)

Section 4.2.4 has been updated as requested.

17. As necessary, please update the Summary of Annual Activities Charts for the Perkins and Tompkins Mine Areas in Sections 4.2.9(b) and 4.2.9(c), respectively. (MJF)

Sections 4.2.9(b) and 4.2.9(c) have been updated as requested.

Note that on tables gray indicates added text and red indicates removed text, as use of shading and strikeout are problematic in the manner they are to be used.

Please contact me at (307)-696-3543 (cell) or melody.smith@mineralstech.com with any questions.

Sincerely,



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



cc: Rob Robbins (without enclosures)

Enclosures: 1 CD and original signature Revision and Renewal forms



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

Date	11/22/2022
Revision Number	12

Name of Company, Corporation, Partnership, or Individual American Colloid Company	Permit Number ACPG-9701	State	Zip Code
Address P.O. Box 2010	City Belle Fourche	SD	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 12 is filed in response to the Reclamation Division's August 24, 2022 renewal review letter and American Colloid Company's adjustments to mine planning. Modifications/updates include certificate of insurance and endorsement, company organizational structure and other legal and business information, surface and mineral ownership, lease information, mine plans, reclamation plans and cost, NDPDES permit, and annual activities as

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):

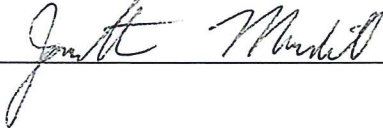
NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
ADDRESS					
TOTAL ACRES					

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
Jordan McGill

- 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:
 - 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 	Title <i>Environmental Affairs Supervisor</i>
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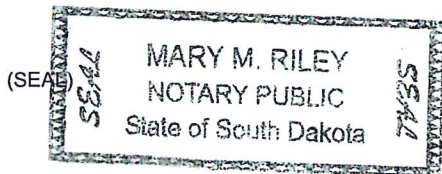
VERIFICATION


I, Jonathan Mudill, 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 	Title <i>Environmental Affairs Supervisor</i>
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STATE OF South Dakota)
 COUNTY OF Butte) ss.

Subscribed and Sworn before me, this 22nd day of November, 2020.




 Notary Public
 My Commission Expires: My Commission Expires
January 19, 2023