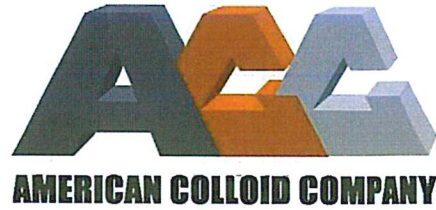


March 8, 2023



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

Ms. Zanna Brinkman
Director – Reclamation Division
North Dakota Public Service Commission
600 East Boulevard Ave
Department 408
Bismarck, ND 58505-0480

*Encryption Code
ACPG9701!*

RECEIVED

MAR 10 2023

**RE: Permit ACPG-9701 Revision 12 and Renewal 5 Technical Review
Comment Response to PSC Comments Dated 2/21/2023.**

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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 technical review comments from the PSC Reclamation Division dated February 21, 2023. Revision 11 of the permit will expire on April 22, 2023.

The following items need to be addressed prior to renewal/revision approval; a copy of the PSC comment and ACC's response (italicized, blue shading) are provided below.

The Reclamation Division has conducted a technical review of the application for Revision No. 12 to Permit ACPG-9701. This revision was submitted in response to our pre-renewal review of the permit, and it updates the permit prior to the fifth renewal of the permit. The following items will need to be adequately addressed prior to revision approval.

Section 1.3 Business Entity/Compliance Information

1. The ND Department of Water Resources address is now 1200 Memorial Hwy, Bismarck, ND 58504. Also, update the **Date of Expiration** to April 16, 2023, in Section 1.3.5 – Other Licenses and Permits. (MJF)

Section 1.3.5 has been updated to reflect the referenced ND Department of Water Resources address and the date of expiration was changed to 2023; note that the date of expiration is April 15 as stated...the renewed permit (in progress) will take effect April 16.

Red text in the footer indicates the equivalent of ~~strikeout~~; ~~strikeout~~ is not working for some reason.

Section 1.5 Identification of Interests and Right of Entry

2. Please add the most recent Tompkins' lease letter dated January 9, 2023, and the certified mail receipt to Section 1.5.1(k) Tract V Tompkins Lease. (MJF)

Section 1.5.1(k) has been updated as requested.

Section 2.6.2 – Surface Water

3. The NDPDES permit ND0026077 issued to ACC expired on June 30, 2022. Please update the narrative in the 3rd paragraph in Section 2.6.2 (Surface Water) to include the new expiration date of the NDPDES permit issued by the ND DEQ. (JAR)

Section 2.6.2 have been updated as requested.

Section 3.1.3 – Pit Layout and Facility Maps

4. Follow-up to Item No. 7 in our August 24, 2022 pre-renewal review letter: Please update the Pit Layout and Facilities Map 3.1.3(c) to show proposed pits through the next 5-year renewal period of 2028 and the actual pits mined through 2022 at the Tompkins Mine. The map currently shows a portion of the S5 pit as a 2021 proposed pit and the S6 and N6 pits as 2022 proposed pits. (MJF)

Map 3.1.3(c) has been updated to show pits through the end of 2022; mining was initiated in the west portion of both N6 and S6 while the east portion has not yet been disturbed. The pit configuration years generally indicate when the areas were initially opened similar to past submittals.

5. Follow-up to Item No. 8 in our August 24, 2022 pre-renewal review letter: Please update Section 3.1.3a (Pit Layout and Facility Maps - Page Mine Area) to maintain the location of the sedimentation pond with the date that it was removed and reclaimed. Additional pertinent mining-related features and facilities such as silt fences, overburden, SPGM stockpile locations, overburden borrow areas, and the haul road are being removed with Revision 12. Please retain mining-related features and facilities on this map and label the features as having been removed if that is the case rather than erasing historic information. The annual mine map information does not need to be included on the Pit Layout and Facilities Map but the disturbance boundary needs to be depicted. (GAW, JAR)

Section 3.1.3(a): Pit Layout and Facilities Map for the Page mine area has been updated to include the following:

- *the sediment pond with date of removal/reclamation (spring 2021)*
- *silt fence locations (removed)*
- *stockpile locations and status (gone/depleted)*
- *haul road location (reclaimed)*
- *disturbance footprint (initial seeding boundary differs from the mine disturbance footprint in that it is slightly larger where needed to tie in with farming of adjacent undisturbed land.*

6. A former haul road is labeled a “local road” on the Perkins Mine Pit Layout and Facilities Map, Section 3.1.3(b), implying that the road was not a mining-related feature. This road was permitted and used as a haul road for the Page Mine and must be labeled as such. Please also depict the overburden borrow area and overburden stockpile(s), if there were any, and the associated disturbance boundary on this map. The associated disturbance boundary should include all areas where SPGM was stripped, such as drainages and diversions above the sediment ponds. It appears only a portion of the SPGM stockpiles are currently depicted on this map. All SPGM piles remaining must be depicted and piles that have been removed should either be labeled as such or the area associated with the pile should be identified as associated disturbance if located outside of the mineral removal boundary. (GAW)

Map 3.1.3(b) has been updated with:

- *current road location labeled as a haul road*
- *stockpile and borrow areas, current and depleted*
- *associated disturbance boundary added (reclamation status) to include all areas where SPGM was stripped (drains and diversions above sediment ponds)*

7. The filing instructions for Revision 12 indicate that the Perkins Mine Pit Layout and Facilities Map, Section 3.1.3(b), was revised but the legend in the map indicates that it was last updated with Revision No. 11. Please correct this error. (GAW, SMN)

Section 3.1.3(b) Perkins Mine Pit Layout and Facilities Map legend has been updated to the current revision date.

Section 3.6.1 - Surface Water Management – (Page Mine Area)

8. Please update the narrative in Section 3.6.1 (Surface Water Management – Page Mine Area) to include when the mining and reclamation were completed and that there are no surface water management structures remaining in the permit area. (JAR)

Section 3.6.1 has been updated as requested.

Section 4.1 – Post-Mining Land Use and Revegetation

9. Please depict and label the postmining land uses of areas outside of the mining disturbance boundary on the Perkins Mine’s Post Mining Land Use Map, Section 4.1.2 (b). The pre-mining land use map depicts cropland, tame pastureland and native grassland in areas that have not been affected by mining. (GAW)

Map 4.1.2(b) has been revised to reflect post mine land uses between the Perkins area permit boundary and disturbance boundary.

10. A revised landowner preference statement for the Perkins property appears to indicate that the road traversing the property remains a permanent feature but only a

portion of this road is depicted on the Post Mining Land Use Map, Section 4.1.2 (b). Please revise to provide clarity. (GAW)

Map 4.1.2(b) has been updated to show the entire haul road on Perkins and an updated Landowner preference statement in Section 4.1.4(a) has been added to reflect the portion of the road in the S1/2 of Section 2.

*A lease amendment has been added to Section 1.5.1(j) to reflect all areas affected by the haul road. **Replace with notarized by Sara***

Section 4.1.7 - Reclamation Schedule Variance Request (Tompkins Mine Area)

11. Please include the variance request for the delayed backfilling at the Tompkins Mine that was originally submitted on December 8, 2022 and update the letter's date. (MJF, GAW, JWE)

Variance Request originally submitted December 8, 2022 that was not required at the time per PSC response, has been added to Section 4.1.7(b)(2) as a new request dated 3/8/2023.

Section 4.2.4 – Reclamation Costs

12. The seed prices from the 2022 variable cost update were not incorporated into Section 4.2.4. Please revise this section to include the updated costs. (SMN/JWE)

Section 4.2.4 has been revised to reflect the perennial grass species costs presented in the 2022 variable cost update document and \$0.26/lb for winter wheat per 3/2/2023 discussions with PSC staff.

Red text = remove; blue highlight indicates modified.

Sweetclover has been removed, as it is not included in the permitted seed mix.

13. The fertilizer and application cost from the 2022 variable cost update were not incorporated into Section 4.2.4. Please revise this section to include the updated cost. (SMN/JWE)

Section 4.2.4 has been revised to reflect the fertilizer and application costs presented in the 2022 variable cost update document.

The fertilizer cost is \$27.60/acre and the application rate is 6.98/acre for a total of \$34.58/acre.

Please respond to this letter in a timely fashion so that the revision and renewal can be processed prior to the April 22, 2023 expiration of the current permit term. Revision 12 and Renewal 5 must be on the April 12th Commission meeting agenda for approval. If any bond changes are required, the bond documents must be

Renewal Review Comment Response
March 8, 2023
Page 5 of 5

executed and accepted by the Commission prior to approval of the revision and renewal. If you have any questions, please contact this office.

The current bond is adequate per Section 4.2.4 calculations.

The Revision and Renewal must be on the April 12, 2023 Commission meeting agenda for approval: comment response was mailed Fed X overnight delivery to the PSC on March 3, 2023 to facilitate this timeline.

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, Jon Madill, Blake Karp (email only, without enclosures)

Enclosures: 1 thumb drive

