

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**SMRD DOCKET NO. C12-0028-SC-01-F**

**APPLICATION OF ALCOA INC. FOR PHASE I RELEASE OF RECLAMATION OBLIGATIONS,  
4,207.9 ACRES, REVISED TO 4,178.8 ACRES, PERMIT NO. 1F, MILAM AND LEE COUNTIES,  
TEXAS**

**ORDER APPROVING RELEASE  
OF PHASE I RECLAMATION OBLIGATIONS  
FOR 4,178.8 ACRES WITHIN PERMIT NO. 1F**

Statement of the Case

Alcoa Inc. (Alcoa), P.O. Box 1491, Rockdale, Texas 76567-1491 applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for Phase I release of reclamation obligation for 4,207.9 acres, subsequently revised to 4,178.8 acres within the Sandow Mine. The Sandow Mine is located in Milam and Lee Counties, Texas. Portions of the acreage requested for release are located in both counties. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon 2012), and "Coal Mining Regulations" Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE Ch. 12 (West 2012).

Permit No. 1F currently authorizes surface coal mining operations at Alcoa's Sandow Mine within its 10,730.27-acre permit area. Copies of the application were filed in required County and Commission offices and notification was sent to required persons and entities for review and comment. No requests for hearing were filed following public notice. No comments were filed. The only parties to the proceeding are Alcoa and the Commission's Surface Mining and Reclamation Division (Staff). There remain no outstanding issues between the parties. Based on the information provided by the applicant and its inspection of the area, the Staff recommends the release of Phase I obligations for 4,178.8 acres, as revised by Alcoa after review by Staff. The parties have filed waivers of preparation and circulation of a proposal for decision.

The Commission approves the release of reclamation obligations as revised. Alcoa does not request adjustment to the approved reclamation bond at this time and no new bond has been submitted. An eligible bond reduction amount of \$14,054,806.39 may be determined.

**FINDINGS OF FACT**

Based on the evidence in the record the following Findings of Fact are made:

1. By letter dated May 4, 2012, Alcoa filed its application for Phase I release for 4,207.9 acres within the 10,730.27-acre permit area of Permit No. 1F, Sandow Mine, located in Milam and Lee Counties, Texas. Portions of the proposed release areas extend into both counties. The acreage of the permit area was last revised from 10,728.60 acres by an incidental boundary revision of 1.67 acres in administrative Revision No. 29 (Staff TA in revision dated July 24, 2012) resulting in an area of 10,730.27 acres.
2. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon 2012) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE Ch. 12 (West 2012). No filing fee is required. The application was properly certified by letter dated September 19, 2012 in accordance with §12.312(a)(3), as supplemented by letter dated June 24, 2013.
3. Alcoa supplemented the application by letter dated July 12, 2012 with a revised draft notice and revisions to Sections 1 and 2 of the application, addressing discrepancies in the acreage of areas requested for release and in the number of structures within the areas proposed for release, and by letter dated July 23, 2013 to respond to additional deficiencies noted by Staff.
4. Alcoa does not request a reduction in the amount of the approved reclamation bond. The existing reclamation bond for the entire permit area, accepted by Order dated February 7, 2012 is \$56,000,000 accepted by Commission Order dated February 7, 2012. Permit No. 1F was last renewed by the Commission by Order dated on August 18, 2009. The mine is in reclamation with no mining occurring or proposed.
5. The areas proposed for release are detailed in the application and Staff inspection report and evaluation document, including figures showing the location of the areas proposed for release and photographs showing the condition of the land comprising these areas. Photographs of the proposed release area and structures within the release areas provide support for the application.

6. Discrepancies noted by Staff in the application included several slivers of land that were included in the request in error. Some areas had been included that had not been disturbed and therefore are not subject to release, and other areas had been included that were previously released from all reclamation obligations. An additional very small acreage was first determined by Staff in error to have already been released from reclamation obligations; Staff later determined that this area is correctly included in Alcoa's request. All of these discrepancies have now been corrected.
7. All structures contained within the areas requested for release have been approved as permanent. Among the structures initially identified by Alcoa as within the areas requested for release, there were three that had already been released from Phase I obligations; therefore, these three are not technically within the areas now requested for release (the G-Area Endlake, DARC-XI Road, and the DDI-05A Diversion). The structures contained within the areas requested for Phase I release include the following: 20 permanent impoundments that include Ponds 016, 026, 020, A-1, RA-1, RH1-B1, RH4, RH-3, RH-5, RH-8, RA-2, C3W, 007, STK-1, and Endlakes North F, F, FG1, FG-2, H-Area and I-South; the following 21 permanent roads, ACE-1, RR-F3, RR-A1, RR 026, RR-A3, RR-C1, RR-C3, RR-F1, SR-H5, RR-G1, RR-H1, RR North, RR-E1, SR-H1, RR-020, SR-H7, CR2F4, North F Service, SRH7A, North Endlake Service, and C2C3 Roads; two pond outlet structures, Pond 026 Outlet and Pond 016 Outlet, one inlet structure, Pond 020 Inlet, one concrete spillway crossing, E-Area Endlake Primary Spillway, and six drop structures, North Drop 2, North Drop 3, South Drop 1, South Drop 3, South Drop 6, and South Drop 8.
8. Eight groundwater monitoring wells are located within the areas requested for release: SP-26, SP-42, G38-20(S), UB-H2-93R, OB-42R, H51-14, H4159A, and SP-17.
9. The postmine land uses within the areas proposed for Phase I release include (in the following approximate percentages, in that a small percentage included undisturbed lands): industrial/commercial land use (0.4%), pastureland (86%), developed water resources (12.5%), and fish and wildlife habitat (0.9%).

10. By letters dated May 18, 2012, Staff notified owners of lands within the area requested for release, the applicant, and the Office of Surface Mining Reclamation and Enforcement of the date scheduled for inspection of the area, June 4, 2012.
11. The Director, SMRD, declared the application administratively complete by letter dated September 20, 2012. The Staff's technical and inspection reports were filed with the Hearings Division by letter dated July 22, 2013, and, following supplementation by Alcoa (Findings of Fact No. 2 and 3), Staff's Addendum 1 to the report was filed by letter dated August 6, 2013.
12. By letters dated July 23, 2012, Alcoa sent notice to landowners and adjoining landowners of the areas requested for release; Alcoa filed copies of the letters with the Commission by letter dated September 4, 2012. Notice of the application was published once each week for four consecutive weeks on July 26, 2012 and on August 2, 9, and 16, 2012 in *The Rockdale Reporter*, a newspaper of general circulation in Milam County, and in the *Lexington Leader*, a newspaper of general circulation in Lee County. The areas requested for release are located in these two counties. The notice of application contains all information required by the Act and Regulations for notice of application for bond release applications. Alcoa submitted an affidavit of publication with clippings. The published notice is adequate notification of the request for release. The notice included the elements required by §134.129 of the Act and §12.312(a)(2) of the Regulations: the name of the permittee, the precise location of the land affected, the total number of acres, permit number at the time of application and date approved, the amount of bond filed, the type and appropriate dates reclamation work was performed, and a description of the results achieved as they relate to the approved reclamation plan. The notice contained information concerning the applicant, the location and boundaries of the permit area, the availability of the application for inspection and address to which comments should be sent. Alcoa submitted proof of publication by its letter dated September 4, 2012, with attached publisher's affidavit and news clippings.
13. Copies of the application were filed for public review at the main office of the Railroad Commission of Texas at 1701 North Congress, William B. Travis Building, Austin, Texas, and in the offices of the Milam and Lee County Clerks.

14. Alcoa also sent notification letters to local governmental bodies, and other agencies and authorities as required by §12.312(a)(2) by letters dated July 23, 2012. Notice was sent to the Milam County Judge and County Commissioners, the Lee County Judge and County Commissioners, the Texas Department of Transportation, the Environmental Protection Agency, the U.S.D.A. Natural Resources Conservation Service, the Texas Commission on Environmental Quality, Texas State Soil and Water Conservation Board, Taylor Soil and Water Conservation District, Burleson-Lee Soil and Water Conservation District, Texas General Land Office, Brazos River Authority, and to Verizon, Bartlett Electric, Bluebonnet Electric, Manville Water Supply Corporation, Southwest Milam Water Service Company, Atmos Energy, and Oncor. The areas requested for release are not located within the territorial boundaries of any municipality.
15. The Commission sent notice by certified mail to the County Judges of Milam and Lee Counties by letters dated July 17, 2012 as required by §134.133 of the Act.
16. Alcoa, two private landowners, and Milam and Lee Counties own portions of the areas requested for release. Alcoa holds leases on all of the tracts within the areas requested for release. Adjoining properties are owned by 13 private landowners and by the Texas Department of Transportation.
17. No adverse comments or written objections were filed regarding the request for release. No requests for hearing or informal conference were filed pursuant to §12.313(d).
18. SMRD Inspection and Enforcement staff conducted its inspection of the areas requested for release beginning on June 4, 2012 and concluding on June 5, 2012 accompanied by representatives of Alcoa. The Inspection Report was dated May 31, 2013 and was filed with the Hearings Division by letter dated July 22, 2013. Based upon the Staff's TA, supplements to the application, and Staff's TA Addendum I, all requirements for release of Phase I reclamation obligations have been met.

- (a). Mining operations were conducted on 3,212.4 acres from 1988 and 2005, and 966.4 acres were disturbed by mining-related activities from 1980 to 2011. All backfilling, grading, and drainage control requirements set out in the Regulations are met. All areas have been filled, graded, or otherwise stabilized. All highwalls, spoil piles and depressions were eliminated. Backfilling was conducted in a manner to minimize potential for groundwater contamination. The areas meet requirements for regrading to approximate premine topography as required.
- (b). The subject acreage does not contain any cut-and-fill terraces or underground drains.
- (c). All requirements for covering acid- and toxic-forming (AFM/TFM) and combustible materials have been met, and Alcoa has covered exposed coal seams remaining after mining and all acid-forming materials, toxic-forming materials, and combustible materials with a minimum of four feet of the best available nontoxic and noncombustible material. Suitable topsoil was placed over regraded spoil; at least one foot of topsoil and three feet of subsoil have been tested and have been demonstrated to be non-acid-forming, non-toxic, and non-combustible material. Minesoil monitoring results are satisfactory. Alcoa submitted soil-testing data on various dates between 2004 and 2012; the data was accepted as demonstrating soil suitability by letters from the Commission dated April 4, 2005 (Section 4, Application), June 23, 2006, May 18, 2007, April 9, 2008, July 28, 2008, February 26, 2009, April 20, 2011, and June 15, 2012 (Inspection Report, Appendix V and Staff TA, page 2).
- (d). The structures located within the areas requested for Phase I release are approved as permanent and are structurally intact and stable.
- (e). All runoff from the areas requested for release flows into E-Area Endlake, C-Area Endlake, H-Area Endlake, I-South Endlake, Pond RI-1, Pond 020, and Pond 007. All discharge structures were designed to minimize disturbance of the hydrologic balance. The areas requested for release have been revegetated and stabilized. There are no areas of uncontrolled drainage. All discharges from the Sandow Mine flows to Somerville Lake on Yegua Creek (TCEQ Stream Segment No. 1212) and ultimately to the Brazos River. Stream water quality monitoring is being conducted according to Permit No. 1F, and all discharges from the permit

area are monitored for compliance with water quality effluent limitations in accordance with the Texas Commission on Environmental Quality National Pollutant Discharge Elimination System (NPDES) Permit No. 00395. Groundwater monitoring is also being conducted to ensure that there is no impact to groundwater quality from operations.

- (f). No prime farmland is located within the areas requested for release for which other requirements for soil construction would be applicable.
19. The eligible bond reduction amount, based upon the Findings of Fact contained in this Order and Staff calculations, is \$14,054,806.39. No reduction of the accepted \$56,000,000 bond approved by Commission for this permit is requested in this application. The acreage in this bond release application is made up of Phase I *mined* acreage, 3,212.4 acres, at a rate of \$5,457/acre. The amount for Phase I release of reclamation obligations is calculated at 60% of the estimated costs to reclaim mined acreage, \$3,896/acre total amount for Phase I release (3,212.4 acres x .60 x \$5,457 per acre), making up the amount of \$10,518,040.08. The amount for Phase I release of *disturbed* acreage, 966.4 acres, is calculated at 60% of the estimated costs to reclaim disturbed acreage, \$2,337.60/acre, that is 966.4 acres x .60 x \$3,896/acre, making up the amount of \$2,259,056.64. The total amount of reclamation costs that may be released for mined and disturbed acreage is \$12,777,096.72. Ten percent of this amount, \$1,277,709.67, is added for administrative costs, for a total eligible bond reduction of \$14,054,806.39.
20. Alcoa has not requested an adjustment to the approved bond at this time. No replacement bond instrument has been filed.
21. All acres requested for release have been marked in the field to distinguish them from other reclamation areas.
- CONCLUSIONS OF LAW**
- Based on the above Findings of Fact, the following Conclusions of Law are made:
1. Proper notice was provided for this request for release of reclamation obligations.

2. A public hearing on the request is not warranted.
3. Alcoa has complied with all applicable provisions of the Act and the Regulations for Phase I release of reclamation obligations for the areas requested for release, as revised, and as set out in the Findings of Fact.
4. The Commission may approve a Phase I release of reclamation obligations for 4,178.8 acres, made up of 3,212.4 mined acres and 966.4 disturbed acres (aggregate of 4,178.8 acres) as set out in the Findings of Fact.
5. An eligible bond reduction amount for use in reclamation cost estimates of \$14,054,806.39 may be determined.

BE IT THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the above Findings of Fact and Conclusions of Law are adopted;

BE IT FURTHER ORDERED that a release of Phase I reclamation obligations for an aggregate of 4,178.8 acres is hereby approved;

BE IT FURTHER ORDERED that the Commission determines an eligible bond reduction amount for use in reclamation cost estimates for the aggregate acreage of \$14,054,806.39;

BE IT FURTHER ORDERED that all areas released from reclamation obligations shall remain clearly marked in the field with permanent boundary markers maintained to distinguish these areas at all corners and angle points from active mining and reclamation areas in accordance with this ORDER;

BE IT FURTHER ORDERED that the current bond remains in effect according to its terms until the Commission approves a replacement bond;

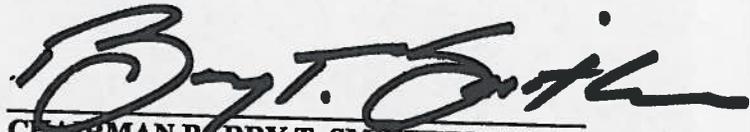
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BE IT FURTHER ORDERED that the Commission may vary the total amount of bond required from time to time as affected land acreage is increased or decreased or where the cost of reclamation changes; and

BE IT FURTHER ORDERED by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is mailed. If a timely motion for rehearing is filed by any party of interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

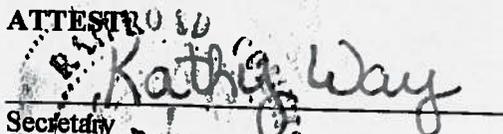
SIGNED this 10th day of September, 2013.

RAILROAD COMMISSION OF TEXAS

  
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CHAIRMAN BARRY T. SMITHERMAN

  
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COMMISSIONER DAVID PORTER

  
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COMMISSIONER CHRISTI CRADDICK

ATTEST  
  
\_\_\_\_\_  
Secretary  
Railroad Commission of Texas  
