

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

SMRD DOCKET NO. C13-0005-SC-01-F

**APPLICATION OF ALCOA INC. FOR PHASE III RELEASE OF RECLAMATION OBLIGATIONS,
183.2 ACRES, PERMIT NO. 1F, MILAM AND LEE COUNTIES, TEXAS**

**ORDER APPROVING RELEASE
OF PHASE III RECLAMATION OBLIGATIONS**

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 III release of reclamation obligation for 183.2 acres (known as the "Crab Claw Area" due to its shape) within the Sandow Mine. Sandow Mine is located in Milam and Lee Counties, Texas. The acreage requested for release is located in Milam County. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon Supp. 2013), and "Coal Mining Regulations" Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE Ch. 12 (West 2013). The Commission has previously approved Phase I and Phase II releases for this acreage by Order dated December 4, 2001 in Docket No. C1-0022-SC-01-F.

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. One comment, by the U.S.D.A. Natural Resources Conservation Service, was submitted indicating that natural resources should not be adversely affected by release of the acreage. 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 requested. In two previous dockets,

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the Commission disapproved Phase III release of the acreage, first, due to drainage from disturbed areas crossing the area, then due to the evaluation of the overburden groundwater monitoring data for the proposed Phase III release parcels and high TDS concentrations at long-term surface water monitoring station (LTSM) Station No. 7. Further, fish and wildlife habitat ground cover and stem-count data were not measured within the final year for the Extended Responsibility Period (“ERP”) for an area of 59.2 acres within the acreage requested for release. Upon reapplication and sufficient information, Staff now recommends Phase III release.

The parties have filed waivers of preparation and circulation of a proposal for decision.

The Commission approves the release of reclamation obligations as recommended by Staff. 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 \$164,037.28 may be determined.

FINDINGS OF FACT

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

1. By letter dated September 21, 2012, Alcoa filed its application for Phase III release for 183.2 acres within the 10,728.56-acre permit area of Permit No. 1F, Sandow Mine, located in Milam, Lee, and Williamson Counties. The proposed release area is located in Milam County.
2. During the processing of the application, Alcoa requested that review of the above-referenced application be temporarily suspended, so that Alcoa could respond to outstanding deficiencies noted by Staff. The processing was resumed upon supplementation of the application.

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3. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon Supp. 2013) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE Ch. 12 (West 2013). 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. Other supplements were filed by letters dated May 31, July 24, September 13, and October 30, 2013. Supplemental vegetation data were submitted by letters dated March 25 and April 25, 2013.
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. The mine is in reclamation. Permit No. 1F was last renewed by the Commission by Order dated August 18, 2009.
5. The area proposed for release is detailed in the application and Staff inspection report and evaluation document, including figures showing the location of the area proposed for release, as supplemented, and photographs showing the condition of the land comprising the 183.2 acres. Photographs of the proposed release area and the one structure located in the area proposed for release provide support for the application. Phase I and Phase II releases for the 183.2-acre area were approved by Commission Order dated December 4, 2001 (Docket No. C1-0022-SC-01-F).
6. One permanent pond is located within the area requested for release, Pond RE-2. It was approved as permanent by letter dated July 15, 2003, and the pond is in stable condition. No rehabilitation is needed. No monitoring wells are located within the area requested for release.

7. The postmine land uses within the areas proposed for Phase III release include pastureland (66.3%), fish and wildlife habitat (32.3%), and developed water resources (1.4%).

8. The Director, SMRD, declared the application administratively complete by letter dated December 7, 2012. By letter dated September 27, 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, October 18, 2012.

9. Notice of the application was published once each week for four consecutive weeks in *The Rockdale Reporter* on October 25, 2012, and on November 1, 8, and 15, 2012. The newspaper is a newspaper of general circulation in Milam County, the location of the area requested for release in the locality of the surface mining and reclamation operations. 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 requested for release, the permit number at the time of application and the 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 letter dated December 4, 2012, with attached publisher's

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affidavit and news clippings.

10. By letters dated October 22, 2012, Alcoa sent notice to owners of interests in the areas requested for release and adjacent lands, informing them of the requested release and sending a copy of the public notice.
11. 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 office of the Milam County Clerk, 100 South Fannin, Cameron, Texas 75840. The release areas are located in Milam County.
12. Alcoa sent notification letters to local governmental bodies, and other agencies and authorities as required by §12.312(a)(2) by letters dated October 22, 2012. Notice was sent to the Milam County Judge and County Commissioners, 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, Texas General Land Office, Brazos River Authority, Verizon, Bartlett Electric, Verizon, Oncor, Sunoco Pipeline LP, and Southwest Milam Water Service Company. By letter dated December 7, 2012, Alcoa also notified the U.S. Army Corps of Engineers pursuant to instruction by Staff. The areas requested for release are not located within the territorial boundaries of any municipality. One comment, by the Natural Resources Conservation Service, was submitted indicating that natural resources should not be adversely affected by release of the acreage.

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13. The Surface Mining and Reclamation Division mailed letters pursuant to §12.312(b) dated September 27, 2012, to the owners of the surface and leaseholders of the area requested for release, to the Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office (OSM), and to agencies that were sent notification of the application. Alcoa is the only landowner. The notification stated that a release had been requested and, pursuant to §12.312(b)(1), advised them of the opportunity to participate in the on-site inspection scheduled for October 18, 2012. 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).
14. Staff filed its Technical Analysis (TA) by letter dated March 14, 2013 along with its inspection report. Staff filed its TA Addendum No. 1, following supplementation by Alcoa, by letter dated December 6, 2013.
15. The Commission sent notice by certified mail to the County Judges of Milam and Lee Counties by letters dated October 23, 2012, as required by §134.133 of the Act.
16. SMRD Inspection and Enforcement staff conducted its inspection of the areas requested for release accompanied by representatives of Alcoa. The Inspection Report was dated January 15, 2013 and was filed with the Hearings Division by letter dated March 14, 2013, (Addendum IV).
17. The Commission approved the 183.2 acres for Phase I and Phase II releases by Order dated December 4, 2001 (Docket No. C1-0022-SC-01-F). The 183.2 acres have now met the requirements for Phase III release.
 - (a). The portion of Pond RE-2 located within the release area is approved as a permanent

structure, is stable, and no maintenance is required. There are no other structures located within the 183.2-acre area. The pond is appropriate for the postmine land use.

- (b). The acreage has met the ground cover, stem-count, and productivity standards for Phase III release, as applicable. Sampling of ground cover and stem count for fish and wildlife postmine land use and ground cover and productivity for pastureland was consistent with the Commission guidance document, *Procedures and Standards for Determining Revegetation Success on Surface Mined Lands in Texas*.
- (1). Within the area requested for release, 121.5 acres have a postmining land use of pastureland, contained within the land management unit (LMU) designated as E009-P, accepted into the extended responsibility period (ERP) beginning October 31, 2000. By letter dated November 6, 2003, SMRD approved ground cover and productivity data for LMU E009-P for growing season 2002, and by letter dated August 20, 2004, SMRD approved ground cover and productivity data for LMU E009 for growing season 2003. Ground cover and productivity data were determined to meet the requirements for successful revegetation, that is, for any two years of the ERP other than the first year in accordance with §12.395(c)(2) of the Regulations. These areas have met the five-year extended responsibility period (ERP), a minimum of five years for areas receiving more than 26 inches of average annual precipitation.
- (2). Alcoa submitted ground cover and stem-count data for the 59.2 acres of fish and wildlife habitat land use contained within the areas requested for release by letter

dated August 23, 2007 for growing season 2007. The Commission approved the ground cover and stem count by letter dated October 11, 2007. The data applied to fish and wildlife habitat LMU E00-H. The extended responsibility period (ERP) for this LMU began on October 31, 2000. The approved standard requires that ground cover or stocking shall be considered equal to the approved success standard when they are not less than 90% of the success standard with a 90% statistical confidence interval. Staff review indicates that the LMUs have met the ground cover and stem count requirements for growing season 2007 based on the survey submitted. In accordance with §12.395(c)(2) for fish and wildlife habitat, ground cover and stem-count must equal or exceed the applicable success standard during the growing season of the last year of the ERP. Because it had been more than four years since the 2007 survey, Staff required a qualitative or quantitative resurvey of the vegetation within the LMU. Alcoa conducted a qualitative resurvey on April 26, 2012 for the fish and wildlife LMU and submitted it to the Commission by letter dated March 25, 2013. The information was supplemented by letter dated April 25, 2013. Staff's TA Addendum No. 1 filed December 6, 2013 confirmed that the vegetation in LMU E00-H continues to meet revegetation requirements in accordance with §12.395(b)(3) and §12.395(c)(2). These areas have successfully met the five-year ERP. The vegetation on these areas is sufficient for the postmine land use.

- (3). Within the acreage requested for release, 2.5 acres have a postmine land use of developed water resources (Pond RE-2, Exhibit 142-LU). There is no requirement for completion of the ERP for areas with this postmine land use. Vegetation must be

sufficient to control erosion surrounding the developed water resource. The vegetation surrounding Pond RE-2 is sufficient to control erosion as inspected by Staff and as depicted in Photograph 2 contained in the inspection report (mislabelled as RE-1).

18. No portions of the areas proposed for Phase III release of reclamation liability were reclaimed as prime farmland. (§§12.201 and 12.620-12.625).

19. In addressing the requirements of §12.313(a)(3) and §12.348 for groundwater protection, Alcoa has submitted groundwater monitoring data for the overburden, spoil, and underburden aquifers within and adjacent to the Sandow Mine. Staff recommends Phase III release based on the following factors.
 - (a). The pre-mine overburden aquifers in the reclaimed area have been destroyed. Those aquifers, however, constitute only minor aquifers that generally did not yield significant quantities of water. The underburden aquifers in the Sandow Mine area are separated from the overlying mined spoil by clays five feet or more in thickness. Immediately below this underclay are the shallowest water-bearing underburden units, which are relatively thin silty sand lenses interbedded with clay units and lignite stringers, but have only limited lateral hydrologic extent. The shallowest significant aquifer within the mine area is the Simsboro Formation underlying the lignite-bearing Calvert Bluff Formation. This sandier unit lies tens to hundreds of feet below the underclay and is well developed in Milam and Lee Counties. It has not been affected by the mining activities.

- (b). There are no groundwater monitoring wells located within the areas requested for release. Alcoa has provided an analysis of the groundwater data from nearby long-term groundwater monitoring wells (LTGM). Data regarding the water level from three spoil monitoring wells WW-4, SP-47, and SP-51, indicate measurable increases in water levels, seasonal rises and drops in water levels, indicating that the water levels appear to have stabilized or are approaching stability.
- (c). Spoil monitoring wells WW-4, SP-47, and SP-51 also indicate that water quality appears to have followed trends expected from the probable hydrologic consequences (PHC) determination and Cumulative Hydrologic Impact Assessment (CHIA) for Permit No. 1F. Data indicates that the water in spoil well WW-4, with a 30-year period of record, shows a decreasing trend in constituent levels; the water quality varies considerably with TDS concentrations ranging from slightly greater than 800 mg/L to almost 2,600 mg/L.
- (d). A certified report submitted by Alcoa's engineer evaluated data from three (3) LTGM monitoring wells monitored quarterly (OB-E44-15, PZC-6, and C-3-OB) completed in the overburden hydrologic units downgradient to the proposed areas of Phase III release. This report focused on water quality issues related to the 183.2-acre release area that were noted in previous Staff evaluations related to the three wells. Staff had noted lack of recovery of water levels in two Calvert Bluff overburden LTGM wells. Staff noted that the water level in downgradient monitoring well OB-E44-15 had declined by over 30 feet since January 1990, and well PZC-6 (piezometer well) showed a rapid increase in water-level in 1993, but then indicated a continual decline since. Staff noted that Alcoa indicates three factors contributing

to the observed lack of recovery: (1) seepage of overburden water into adjacent mine pits, (2) active dewatering of the Calvert bluff via dewatering wells, and (3) drawdown due to a hydrologic connection with the underburden Simsboro Formation that was being depressurized. Staff disagreed with factors (1) and (3), indicating that no mine pit is close enough and the closest has been backfilled for years, and that no hydrologic connection had been documented with the underburden. Staff believes the drawdown was the result of mining activities, but indicated that Alcoa has not provided a reason for the slow recovery of water levels. Staff indicated that it believes that mining may have truncated isolated sand bodies upgradient from the monitoring wells, causing the slow recovery. Staff notes that recent monitoring data for 2010-2012 for the wells indicates that water levels have stopped declining; Staff states that it is likely that the water levels will begin an upwardly trending recovery phase. Data for LTGM well C-3-OB shows an initial water-level decline and subsequent recovery. Staff's evaluation in this application indicates no barriers to Phase III release based on the groundwater levels.

- (e). There is no increasing trend in the total dissolved solids concentrations in overburden monitoring wells OB-E44-15 or C-3-OB. The median TDS concentration in well OB-E44-15 is 1,658 mg/L. The overburden water is not used as a groundwater resource in this area because better-quality water is available in the underlying Simsboro Formation.
20. Alcoa has conducted surface mining activities in accordance with §12.313(a)(2) and §12.349 to protect surface water quality and quantity for the acreage proposed for Phase III release based on the application, as supplemented, and Staff's analysis.

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- (a). All discharge from the Sandow Mine flows to Somerville Lake on Yegua Creek (TCEQ Stream Segment No. 1212) and ultimately to the Brazos River.
- (b). TCEQ issued TPDES Permit No. 00395 to Alcoa for wastewater discharges from the Sandow Mine. Based upon monthly long-term and quarterly-monitoring data, Alcoa established that wastewater discharges do not exceed the Texas Pollutant Discharge Elimination System (TPDES) water quality effluent standards and are within the limitations established for TPDES Permit No. 00395 for pH, total suspended solids (TSS), and iron (Fe). The long-term pond monitoring data do not indicate any trends for TSS, pH and Fe concentrations nor are these constituents influenced by flow.
- (c). Ponds 015, 019, RE-2 (located within the area requested for release), RE-3, and the E-Area Endlake received discharges from the area proposed for release; in addition, Pond 019 (later replaced by the E-Area Endlake during 1996-1997), and the E-Area Endlake served as final discharge ponds for the area. Alcoa provided long-term pond data for these impoundments for pH, total suspended solids (TSS) and total iron (Fe) and flow conditions. The quarterly data were analyzed for pH, conductivity and total dissolved solids (TDS). The long-term data indicated that the average measured pH values fall within the acceptable limits of 6.0 – 9.0 s.u as set out in TPDES Permit No. 00395, i.e., between 7.16 standard units (s.u.) and 9.28 s.u. (averages ranged from 8.06 to 8.56 s.u.). Data for TSS reflects that concentrations for the ponds are in the low range of premine data and are below baseline values from the Probable Hydrologic Consequences (PHC) determination in the permit. No trends are

evident, and the TSS concentrations do not appear to be influenced by flow. Data for TDS concentrations is limited, but on average the TDS concentrations based on impoundment data indicate suitable values for the postmine land uses of pastureland and fish and wildlife habitat. Averages ranged from 98.8 to 598 mg/L. Total iron concentrations also fall within the effluent standards for TPDES Permit No. 00395. There were no values that were found in the data that were noncompliant for the periods of record (Pond 015, January 1991 - December 1994); Pond 019 and the E-Area Endlake (August 1991 - July 2010).

- (d). Currently, Permanent Impoundments RE-2, RE-3, and E-Area Endlake receive runoff from areas proposed for release. In its technical report, Staff summarizes individual quarterly pond data for the following periods of record: E-Area Endlake, June 2006-January 2007; Pond RE-2 (March 2002 – January 2003); and Pond RE-3, March 2002 – January 2003). The data reflect that pH concentrations are within the effluent standards of the water quality permit and, although average TDS varies for the ponds and endlake within a range of 98.8 - 598.8 mg/L, this range is suitable for the proposed postmine land uses.
- (e). There are two long-term stream-monitoring stations that monitor runoff from the lands proposed for release of reclamation liability for the requested area. Long-term surface water monitoring station 6 (LTSM 6) monitors undisturbed drainage; it is located on Country Club Creek immediately downstream of Alcoa Lake and upstream of the permit area; runoff drains to East Yegua Creek, thence to Somerville Lake (Stream Segment 1212 of the Brazos River) and Yegua Creek (Stream Segment 1211 of the Brazos River). LTSM Station 7 is located on East Yegua Creek. This station monitors runoff from reclaimed areas as well as undisturbed

areas. Based upon sampling data submitted for upstream LTSM Station 6 for the period of record October 1979-July 2012 and for downstream LTSM Station 7 for the same period of record, the pH ranges meet the TCEQ Stream Segment limitations (6.5 s.u. to 9.0 s.u). Measurements for chloride range from 25-223 mg/L for the downstream station compared to 2-439 mg/L at the upstream station; the average for chloride meets the segment limitations. Measurements for sulfate range from 17-888 mg/L at the downstream station compared to 3-561 mg/L at the upstream station based on the period of record for the downstream station and the upstream station (10/1979 – 07/2012). The average for sulfate at the downstream station is 188.26 mg/L compared to 88.58 mg/L at the upstream station. The average for the period of record does not meet the stream segment standards of 100 mg/L for Segment 1212 and 130 mg/L for Segment 1211; however, no negative impacts are expected. The 183.2-acre release area is just 1.8% of the watershed of LTSM Station 7 and is just 0.001% of the watershed of mass balance point 2 of the Cumulative Hydrologic Impact Assessment (CHIA) for the permit.

- (f). The average total dissolved solids (TDS) at the downstream station is 1,005 mg/L (with ranges from 130-2,734 mg/L), and the average at the upstream station is 333 mg/L (with ranges from 60-1800 mg/L); however the flow-weighted average for TDS, 624.7 mg/L, at the downstream station meets the stream segment standard of 640 mg/L for Segment 1211 (Yegua Creek). It does not meet the segment standard for Segment 1212 (Somerville Lake) (upstream of Segment 1211) that has a lower threshold limitation for TDS (400 mg/L) than Segment 1211 (640mg/L). Staff concluded in its technical report dated March 14, 2013 prior to supplementation by Alcoa, that based upon data between 2003 and 2012 showing an upward

trend in TDS concentrations and based upon the fact that the Cumulative Hydrologic Impact Assessment for the mine (CHIA) indicated a maximum of 230 mg/L (within the acceptable stream standard for Segment 1212), it could not determine that there has not been and would not be material damage to the stream segment and could not recommend Phase III release of the acreage requested. Staff indicated that Alcoa had not adequately explained the 2003-2012 upward trend in TDS concentrations. In response to the Staff's report, Alcoa submitted updated additional data and provided its analysis by letter dated May 31, 2013. Alcoa's supplemental information, sent by letter dated May 31, 2013, was submitted following meetings with Staff on March 22 and May 28, 2013.

- (g). After review of the supplemental information, staff recommends release of the acreage requested. The Commission determines that drainage from the area requested for release will not impair Stream Segment 1212. Factors influencing TDS concentrations at LTSM Station 7 include dilution by discharged depressurization groundwater beginning in 1989 over a period of time during which TDS concentrations were artificially lowered to approximately 350 mg/L by the depressurization groundwater, then effects from depressurization decreased in that beginning in approximately 2008 the depressurization water was no longer directly discharged but was piped to the C Area and E Area Endlakes. TDS values at LTSM Station 7 increased after the influence of the discharge of higher concentration TDS waters in the endlakes (approximately 800 mg/L) to the stream occurred. Station 7 reflected these higher TDS values. In addition to these effects, drought conditions and re-routing of surface water runoff through the C Area Endlake and then through Station 7 influenced TDS concentrations to higher concentrations. After part of the travel route for water coming into Station 7 was

reclaimed, water was directed by the permanent re-route of East Yegua Creek completed in 2011 through the C Area Endlake and then to the E Area Endlake to discharge at Station 7. This diversion, in combination with record drought conditions, resulted in no flow through Station 7 from May 2010 through May 2012. Alcoa began storing groundwater in C Area Endlake after the re-route and maintaining C Area Endlake at full elevation for use at the Rockdale Industrial Complex. This, and increased rainfall beginning in 2012 has resulted in an aggregate TDS value of generally less than 800 mg/L concentrations in waters of the endlakes and approximately the same at Station 7; this compares to a baseline average of 791 mg/L. The net result, after considering artificial effects from the groundwater pumping and other factors, is a stabilization in TDS at Station 7. Recent concentrations at LTSM Station 7 are approximately 750 mg/L. In addition, although the flow-weighted average TDS concentration for Station 7 does exceed the average annual TDS criteria for Stream Segment No. 1212, the area requested for Phase III release does represent just 1.8% of the watershed (10,187.4 acres) of LTSM Station 7 and 0.001% of the watershed (156,160 acres) of mass balance point 2 considered in Staff's CHIA for the permit. The release area does not appreciably impact the water quality of Stream Segment 1212.

21. The eligible bond reduction amount, based upon the Findings of Fact contained in this Order and Staff calculations, is \$164,037.28. No reduction of the \$56,000,000 bond, a self-bond by Alcoa, approved by Order dated February 7, 2012, is requested in this application. The acreage in this bond release application is made up of Phase III reclamation; Phase III *mined* acreage, 183.2 acres, at a rate of \$814 per acre, for a total eligible bond \$164,037.28 including administrative costs calculated at 10% of the eligible bond reduction amount.

22. Alcoa has not requested an adjustment to the approved bond at this time. No replacement bond instrument has been filed.
23. All acres requested for release were marked in the field to distinguish them from active mining and 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 application for release of reclamation obligations. Proper notice of Commission consideration of the application has also been provided.
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 release of reclamation obligations for the areas requested for release as set out in the Findings of Fact.
4. The Commission may approve a release of reclamation obligations for Phase III reclamation obligations for 183.2 acres, as set out in the Findings of Fact.
5. An eligible bond reduction amount for use in reclamation cost estimates of \$164,037.28 may be determined.

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

IT IS FURTHER ORDERED that a release of Phase III reclamation obligations for 183.2 acres is hereby approved;

IT IS 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;

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

IT IS 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

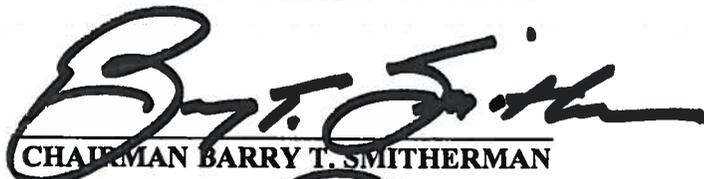
IT IS FURTHER ORDERED by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is mailed. If a timely motion for 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.

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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 21st day of January, 2014.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN BARRY T. SMITHERMAN


COMMISSIONER DAVID PORTER


COMMISSIONER CHRISTI CRADDICK

ATTEST:

SECRETARY

