

RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

SMRD DOCKET NO. C14-0001-SC-01-F

**APPLICATION OF ALCOA, INC. FOR PHASE I, II AND III RELEASE OF
RECLAMATION OBLIGATIONS, 401.3 ACRES, PERMIT NO. 1F, SANDOW MINE,
MILAM AND LEE COUNTIES, TEXAS**

**ORDER APPROVING RELEASE
OF PHASE I, II, AND III RECLAMATION OBLIGATIONS**

Statement of the Case

ALCOA Inc. (Alcoa), P.O. Box 1491, Rockdale, Texas 76567 applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for Phase II and III release of reclamation obligations on 12.1 acres and Phase I, II and III release of reclamation obligations on 389.2 acres for a total of 401.3 acres within the Sandow Mine located in Milam and Lee Counties, Texas. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon Supp. 2014), and “Coal Mining Regulations” Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE Ch. 12 (Thomson West 2014).

Permit No. 1F currently authorizes surface coal mining operations at Alcoa’s Sandow Mine within its 10,728.6-acre permit area. Copies of the application were filed in required County and Commission offices and distributed to applicable agencies for review and comment. No requests for hearing were filed following public notice. 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 the inspection of the area, Staff recommends release of Phase I, II and II reclamation obligations for 401.3 acres. 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 \$2,395,206.22 may be determined.

Order Approving Release of Phase I, II, and III Reclamation Obligations**Findings of Fact**

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

1. By letter dated September 12, 2013, Alcoa filed its application for Phase I, II and III release on 389.2 acres and Phase II and III release 12.1 acres. The proposed release area is located in Milam County, Texas, within the permit area of Permit No. 1F, Sandow Mine. The mine encompasses 10,728.6 acres in Milam, Lee, and Williamson Counties.
2. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2014) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2014). No filing fee is required. The application was properly certified in accordance with §12.312(a)(3).
3. By letter dated June 20, 2014, Alcoa submitted Supplement No. 1, containing additional information to address staff's concerns raised in Staff's technical analysis (TA) issued June 19, 2014. Staff in its TA did not recommend the Phase I, II and III release on 389.2 acres nor Phase II and III release of the 12.1 acres. Following Alcoa's submittal of Supplement No. 1, Staff filed a TA addendum and amended inspection report on July 31, 2014. Staff concluded in the TA addendum that it recommended release of Phase I, II and III reclamation obligations on the 389.2 acres proposed for release and the Phase II and III release of reclamation obligations on the 12.1 acres proposed for release.
4. Alcoa does not request a reduction in the amount of the approved reclamation bond. The existing reclamation bond in the form of collateral-bond with Letter of Credit for the entire permit area, accepted by Order dated June 17, 2014, is in the amount of \$27,250,000.
5. The Phase II and III proposed release of 12.1 acres and the Phase I, II and III proposed release on 389.2 acres is detailed in the Staff Evaluation, Attachment I (Maps 1-4), Attachment III (Staff Inspection Report), and Appendix IV (Inspection Photographs and Inspection Photograph Locations), additionally, Staff's Addendum No. 1 to their June 19, 2014 TA that included and amended inspection report dated July 10, 2014, maps and photographs provide support of the application, the inspection report and the amended inspection report.
6. Phase I, II and III release on 389.2 acres recommended for release are bonded at the mined category rate of \$5,526 per acre, and Phase II and III release 12.1 acres recommended for release are bonded at the mined category rate of \$2,210 per acre.
7. The post-mine land use within the proposed release area is industrial/commercial.

Order Approving Release of Phase I, II, and III Reclamation Obligations

8. By letters dated October 1, 2013, Alcoa sent notice to owners of interests in the areas requested for release and adjacent lands.
9. Notice of the application was published once a week for four consecutive weeks (October 3, 10, 17 and 24, 2013) in the *Rockdale Reporter*. The *Rockdale Reporter* is a newspaper of general circulation in Milam County, which is the locality of the 401.3-acre release area of the permitted mine. 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 the address where comments should be sent. Alcoa submitted proof of publication to the Commission by letter dated November 8, 2013.
10. 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 78701, and in the office of the Milam County Clerk, 100 South Fannin, Cameron, Texas 75840.
11. Alcoa sent notification letters to local governmental bodies and other agencies and authorities as required by §12.312(a)(2). Notice was sent to the Milam County Judge and Commissioners Court, Brazos River Authority, Texas General Land Office, Texas Commission on Environmental Quality, Natural Resources Conservation Service, Environmental Protection Agency, Texas State Soil and Water Conservation Board, and Taylor Soil and Water Conservation District. The areas requested for release are not located within the territorial boundaries of any municipality.
12. The Surface Mining and Reclamation Division mailed letters pursuant to §12.312(b) dated September 18, 2013, to the owners of the surface and leaseholders of the area requested for release and to the Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office (OSM). The notification stated that a release had been requested and, pursuant to §12.312(b)(1), advised the recipients of the opportunity to participate in the on-site inspection scheduled for October 8, 2013. In addition, the Commission sent notice by certified mail to the Milam County Judge and the Lee County Judge on December 2, 2013, as required by §134.133 of the Act.
13. 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).

Order Approving Release of Phase I, II, and III Reclamation Obligations

14. On October 8, 2013, SMRD Inspection and Enforcement staff, accompanied by representatives of Alcoa, conducted its inspection of the area requested for release. The field report did not support the release of Phase I, II and III release on 389.2 acres nor Phase II and III release of the 12.1 acres.
15. No concerns with erosion were noted by Staff and no rills or gullies were observed or noted in Staff's inspection. (§12.389).
16. All acreage requested for release from Phase I reclamation obligations (120 acres) has met Phase I requirements for backfilling, regrading, and drainage control as required by §12.312(a)(1) of the Regulations and may be approved for Phase I release.
 - (1) The areas requested for Phase I release are stable with no active erosion evident.
 - (2) Mining operations occurred in the 389.2 acres requested for Phase I, II and III release from 1998 to 2005. Final grading of the proposed area was accomplished from 1999 to 2011 and is in accordance with the approved permit. The area has been regraded to its approximate original contour, all highwalls have been eliminated, suitable topsoil and subsoil material has been placed over regraded soil, and no cut-and-fill terraces have been constructed. [§12.385].
 - (3) Soil testing did not indicate the presence of acid- and/or toxic-forming materials in the top four feet of postmine soil. [§12.386]. By letter dated June 5, 2013, SMRD determined and notified Alcoa that the soil-testing data did not indicate the presence of acid and/or toxic-forming materials in the top four feet of postmine soil.
 - (4) One creek restoration, East Yegua Creek Segment 3 is located within the proposed Phase I release area. The creek restoration was approved permanent by Final Order dated August 18, 2009. [§12.341].
 - (5) One permanent road is located within the area proposed for Phase I release of reclamation liability. ACE-1 was approved June 10, 1998, and is shown in photograph number 2 to the amended inspection report. [§12.400(f)].
 - (6) One permanent impoundment, C-Area Endlake, is located within the area proposed for Phase I release of reclamation liability. The permanent impoundment was approved permanent by Final Order dated August 18, 2009. [§12.347(b)].
 - (7) Surface water runoff from all areas proposed for Phase I release of reclamation obligations flows to the C-Area Endlake. [§12.343].
 - (8) There are no waste disposal areas within the proposed Phase I release of reclamation area. [§12.375].

17. All acreage requested for release from Phase II reclamation obligations (401.3 acres) have a postmine land use of industrial/commercial (I/C) and has met Phase II requirements for revegetation. Vegetation has been established in accordance with the approved reclamation plan, and applicable ground cover performance standards have been met. The area proposed for Phase II release is not contributing suspended solids to stream flow outside the permitted area in excess of regulatory limits. Thus, the 401.3 -acre area requested for Phase II release of reclamation obligation has met Phase II revegetation requirements [§12.312(a)(2)] and the requirement that the area not contribute suspended solids to stream flow outside the permit area in excess of the requirements set by the Act §134.092(a)(10) and 16 TEX. ADMIN. CODE Ch. 12, Subchapter K.
- (1) No rills or gullies were observed during the inspection of the areas proposed for release. [§12.389].
 - (2) The 401.3 acres proposed for Phase II release have a postmine land use of industrial/commercial. The land has been reclaimed to and managed in accordance with the approved post-mine land uses. [§§12.147 and 12.399].
 - (3) Reclamation efforts within the proposed Phase II release area have been inspected monthly since 2000. The vegetation within the proposed release area consisted of hybrid bermudagrass, Switchgrass, Fleingrass, William lovegrass, Old world bluestem, Sideoats grama and Indiangrass and appears to be healthy and self-sustaining. [§§12.390 – 12.395].
 - (4) The vegetative groundcover is adequate to control erosion. [§12.395].
 - (5) No portion of the area proposed for Phase II release of reclamation liability have soils classified as prime farmland prior to mining. (§§12.620-.625).
 - (6) Drainage from the area proposed for Phase II release flows into the C-Area Endlake. No silt dams are present within the area proposed for Phase II release of reclamation liability. The proposed release area not covered by water has been stabilized with vegetation and road surfacing to reduce the potential for contributing suspended solids to stream flow. [§12.340].

Order Approving Release of Phase I, II, and III Reclamation Obligations

18. The 401.3 acres proposed for Phase III release have a postmine land use of industrial/commercial, for which an extended responsibility period is not required. [§12.395]. The groundcover in the areas is comprised of Bermuda grass, switchgrass and native grasses and is adequate to control erosion. A ground-cover evaluation for this area was approved by Staff letter dated August 21, 2012, and the ground cover for this area is adequate to control erosion.
19. 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).
20. The ground-water hydrologic balance has been protected as required by §12.348 and the re-established postmine ground-water system is adequate for the proposed industrial/commercial use of the 401.3-acre area requested for release.
 - (1) In addressing the requirements of §12.348, Alcoa has submitted ground-water monitoring data for the overburden, spoil and underburden aquifers within and adjacent to the Sandow Mine.
 - (2) Ground-water monitoring for the area proposed for Phase III release has been performed in accordance with the provisions of the approved permit. Long-term ground-water monitoring records have been reviewed by Staff on a quarterly basis.
 - (3) The premine overburden aquifers in the reclaimed area have been destroyed; however, they constituted only minor aquifers. The underburden aquifers in the Sandow Mine area are sands of the Simsboro Foundation, underlying the lignite-bearing Calvert Bluff Formation and separated by clays five feet or more in thickness. The sandier unit (Simsboro) is separated from the mined and affected area by an underlay of several tens of feet in thickness and is fairly well developed in this region in the lower Wilcox Group outcrop.
 - (4) Alcoa provided an analysis of the ground-water data from pertinent wells by letter dated February 18, 2014. The water levels in the spoil monitoring wells adjacent or within the area proposed for Phase III release show measurable increases water levels since the time of mining, for those wells possessing long-term records. The water levels in these spoil monitoring wells appear to be stable or are approaching the post-recovery stage. Seasonal rises and drops in water levels appear to be occurring, indicating that the ground-water system within the spoil has stabilized or is approaching stability.
 - (5) Long-term quarterly monitoring data for most of the overburden and underburden hydrologic units in area within and adjacent to the proposed area of release do not indicate that any significant impacts have occurred to water quantity and quality. The TDS concentrations from overburden monitoring wells that have been continuously

Order Approving Release of Phase I, II, and III Reclamation Obligations

monitored since the mid-1990s or early 2000s have remained generally similar, ranging from 450 mg/L to almost 600 mg/L, depending on the generally isolated overburden stratum in which the well has been completed. Staff notes no ground-water problems that would preclude approval of Phase III release.

21. 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 I, II and III release .
 - (1) The 401.3-acres proposed for release is located in the north mine area is drained by East Yegua Creek.
 - (2) All discharge from the Sandow Mine flows to Somerville Lake on Yegua Creek (TCEQ Stream Segment No. 1212) and ultimately to the Brazos River.
 - (3) 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 and iron (Fe). The average total suspended solids (TSS) concentrations are below or on the low range of the premine data in the PHC determination. The long-term pond monitoring data do not indicate any trends for TSS, pH and Fe concentrations nor are these constituents influenced by flow.
 - (4) During the period of record, runoff from the area proposed for release from reclamation obligations was controlled by several ponds. Currently, except for a very small portion that drains to E-Area End Lake, runoff flows to C-Area End Lake, which functions as a sedimentation pond. Previously, runoff from the proposed release area flowed to E Area End Lake after passing through Ponds 026 and 016. Alcoa indicates that C-Area End Lake reached capacity in 2010. This statement, however, is not accurate because monitoring data for the end lake submitted by Alcoa in the application indicate that the pond began discharging on January 10, 2013. The water level in C-Area End Lake is being controlled by Alcoa because the lake is now a source of water for the power plant. The postmine land use for C-Area End Lake is Industrial/Commercial (I/C). Pond discharge in the Sandow Mine is currently monitored under TPDES Permit No. 00395.
 - (5) The discharge data for Pond 016, Pond 019/E-Area End Lake and C-Area End Lake demonstrate that TSS, pH and Fe concentrations for these ponds fall within effluent standards for Alcoa's discharge permit (TPDES Permit No. 00395). TSS and Fe concentrations range from 0 mg/L to 40 mg/L and 0.01 mg/L to 1.7 mg/L, respectively. The pH values range from 6.99 s.u. to 8.98 s.u. Alcoa's individual graphs of TSS, pH and Fe concentrations do not depict any trends or indicate that

Order Approving Release of Phase I, II, and III Reclamation Obligations

TSS, pH and Fe are influenced by flow. Alcoa also indicates in the application that TSS concentrations from these ponds are below or in the low range of the premine data (4 mg/L to 5,620 mg/L) in the surface-water PHC determination in Permit No. 1F. All discharges reported for the periods of record indicate compliance with the discharge permit

- (6) There are two (2) long-term stream-monitoring stations that monitor runoff from the lands proposed for release of reclamation liability in the south mine area. LTSM Station No. 7 is located at East Yegua Creek and Hwy 77 and monitors disturbed runoff from parcel proposed for release of reclamation liability. LTSM Station No. 6 is located at the upper end of Country Club Creek, immediately downstream of Alcoa Lake and upstream of the permit area. Country Club Creek drains to East Yegua Creek, then to Somerville Lake and to Yegua Creek. TCEQ has identified Somerville Lake and Yegua Creek as Stream Segment No. 1212 (Somerville Lake) and Stream Segment No. 1211 (Yegua Creek). Data from LTSM Station Nos. 6 was provided to demonstrate upstream water quality for the north mine area.
- (7) The flow-weighted average TDS concentrations calculated for the downstream stream-monitoring station (LTSM Station No. 7) appears to be approximately two times greater than the flow-weighted average TDS concentration for upstream stream-monitoring station (LTSM Station No. 6). The flow-weighted average TDS concentration at Station 7 is within limitations specified for Stream Segment No. 1211, but exceed the annual average maximum TDS concentration for Stream Segment No. 1212 (Somerville Lake).
- (8) A comparison of the upstream and downstream data for LTSM Stations Nos. 6 and 7 indicate that TDS concentrations are higher downstream of the proposed release areas. The graph of average flow-weighted TDS concentrations (by year) shows an upward trend for LTSM Station No. 7 between 2007 and 2012: however Alcoa has demonstrated that TDS concentrations at this LTSM station have been influenced by depressurization activities, a severe drought and the water quality in the C-Area End Lake. TDS concentrations at LTSM Station No. 7 have remained below the baseline average since May 22, 2012. Based on the surface water analysis, Staff recommended Phase III release of reclamation obligations for the 401.3 acres.

22. The 389.2 acres proposed for Phase I, II and III release are bonded at the mined rate of \$5,526/acre and the 12.1 acres proposed for Phase II and III release are bonded at \$2,210/acre (40% of the mined rate). If the subject application is approved by the Commission as proposed, Alcoa would be eligible to reduce its performance bond obligations by **\$2,395,206.22**, as shown in the following table:

Bond Reduction as Proposed

Phase Requested	Area, Acres	Disturbance Category	Bonded Per Acre	Eligible Reduction Per Acre	Eligible Reduction
Phase I, II and III	389.2	Mined	\$5,526	\$5,526	\$2,150,719.20
Phase II and III	12.1	Mined	\$2,210	\$2,210	\$26,741.00
Subtotal					\$2,177,460.20
Admin. Costs (10%)					\$217,746.02
Total					\$2,395,206.22

23. The eligible bond reduction amount, based upon the Findings of Fact contained in this Order and Staff calculations, is \$2,395,206.22. No reduction of the \$27,250,000 bond approved by Order dated June 17, 2014, is requested in this application.
24. The notice of application for release did not include an amount of eligible bond reduction requested and Alcoa has not requested an adjustment to the approved bond at this time. No replacement bond instrument has been filed.
25. 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 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 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 II and III reclamation obligations on 12.1 acres and Phase I, II and III release of reclamation obligations on 389.2 acres for a total of 401.3 acres, as set out in the Findings of Fact.
5. An eligible bond reduction amount for use in reclamation cost estimates of \$2,395,206.22 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 II and III reclamation obligations on 12.1 acres and Phase I, II and III release of reclamation obligations on 389.2 acres for a total of 401.3 acres, as set out in the Findings of Fact is hereby approved;

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;

BE IT FURTHER ORDERED that, as a result of the Phase I, II, and III release of 401.3 acres, the Commission approves an eligible bond reduction amount of \$2,395,206.22;

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

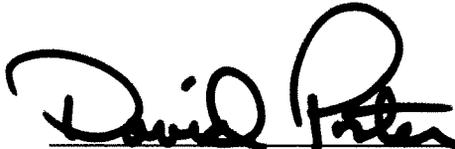
BE IT FURTHER ORDERED by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is mailed. If a timely motion for 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 27 day of January, 2015.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN CHRISTI CRADDICK

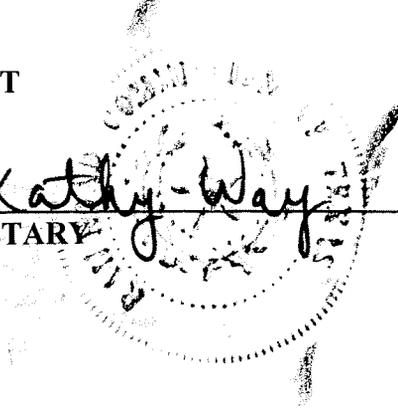
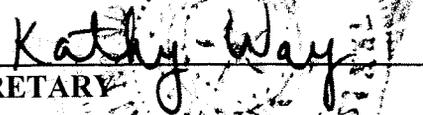


COMMISSIONER DAVID PORTER



COMMISSIONER RYAN SITTON

ATTEST

SECRETARY