

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. C14-0010-SC-01-E  
Application by Alcoa Inc. for Acceptance of Replacement  
Reclamation Performance Bond, Self-Bond, PERMIT NO. 1F  
SANDOW MINE, MILAM AND LEE COUNTIES, TEXAS**

**ORDER ACCEPTING REPLACEMENT RECLAMATION BOND**

**STATEMENT OF THE CASE**

The Railroad Commission of Texas issued Permit No. 1F to Alcoa Inc. (Alcoa), by Order dated August 19, 2009. The permit encompasses approximately 10,728.6 acres in Lee and Milam Counties, Texas of which 9,631.0 acres are currently covered under the reclamation bond following the approval administratively of Revision No. 40 by Staff on February 13, 2014. Alcoa requests that the Commission accept a replacement self-bond in the amount of \$27,250,000 to replace its currently accepted bond in the amount of \$27,250,000 accepted June 17, 2014. Although the Commission has approved various releases of reclamation obligations since acceptance of the current bond, collateral-bond with Letter of Credit, Alcoa has not adjusted its bond since its acceptance in 2014.

Based upon the documentation supporting the bond set out in Alcoa's application, Staff filings, including the Staff report of its reclamation cost estimate, and the Findings of Fact and Conclusions of Law set out in this order, the Commission determines that the proffered self-bond for reclamation performance meets requirements for reclamation performance bonding set out in §12.309(j)(2) of the Regulations for self-bonds and that the self-bond in the amount of \$27,250,000 may be accepted to replace the currently accepted collateral-bond with Letter of Credit in the amount of \$27,250,000.

**FINDINGS OF FACT**

1. Alcoa Inc. (Alcoa) is the permittee for the Sandow Mine, Permit No. 1F, in Lee and Milam Counties, Texas. Permit No. 1F is bonded with a self-bond accepted by the Commission Order dated July 17, 2014 in the amount of \$27,250,000.
2. Alcoa applied by letter dated November 15, 2013 for acceptance of a replacement bond for Permit No. 1F pursuant to §134.123 of the Texas Surface Mining Control 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 (West 2014) (Regulations) in the amount of \$28,000,000. December 19, 2013, Staff filed the application with the Hearings Division and was informed by staff that a revised bond map and Alcoa's revised reclamation cost would be submitted and the Examiner would be informed after final action on Revision No. 40. information regarding Alcoa's estimate, the administrative section's financial review, and the review by legal staff of the

Office of General Counsel, Special Counsel section. The November 15, 2013 application submitted by Alcoa was based on audited 2013 annual financial information and staff subsequently found Alcoa was no longer qualified to self-bond. Alcoa subsequently submitted a \$27,250,000, collateral bond and letter of credit to replace the existing \$56,000,000 self-bond. The collateral bond and letter of credit were accepted by the Commission on June 17, 2014. By letter dated January 21, 2015, Alcoa due to the progression of mining and reclamation operations provided a \$27,250,000 replacement self-bond and unaudited 2014 financial information to replace the \$28,000,000 self-bond application and the 2013 financial information previously submitted. Alcoa submitted audited 2014 annual financial information by letter dated February 20, 2015. Staff submitted to the Hearings Division by letter dated March 9, 2015 the Office of General Counsel's legal review memorandum and Financial Services review memorandum, both dated March 6, 2015.

3. Alcoa has applied for Commission acceptance of a replacement self-bond in the amount of \$27,250,000 for current operations and reclamation within the permit area. The bond is submitted to provide bonding for reclamation if the work is performed by a third party at the direction of the Commission in the event of forfeiture. Replacement self-bonds are subject to the self-bond requirements of §12.309(j)(2) of the Regulations.
4. The reclamation self-bond submitted by Alcoa does not propose to reduce the currently accepted bond of \$27,250,000. By administrative action of the Director, Surface Mining and Reclamation Division, dated February 13, 2014, the Division approved a revision application, Revision No. 40, resulting in a reduction in the permit area boundaries within Permit No. 1F revised cost of reclamation \$27,091,226. Staff's revised reclamation cost estimate of \$27,091,226 was higher than Alcoa's reclamation cost estimate of \$26,256,023 and therefore staff's reclamation cost estimate was adopted. Since this date, the Commission approved an additional application for release of reclamation obligations (without adjustment to the bond instrument) ( Phase II and III release of 12.1 acres and Phase I, II, and III release of 389.2 acres for the Sandow Mine, Docket No. C14-0001-SC-01-F, approved by the Commission on January 27, 2015).
5. The instant application constitutes a bond adjustment for which notice is not required.
6. Alcoa has filed documentation showing the authority of the signatories on the bond to act for Alcoa in this matter in the form of a Corporate Secretary's Certificate certifying that the officers signing the bond hold corporate positions with Alcoa Inc. and are authorized to sign the bond on behalf of the corporation. The corporate secretary also provided an excerpt from the minutes of the corporate meeting in which a resolution was adopted providing authorization to all vice presidents of the corporation, among other officers, with the authority to execute bonds and other agreements. The officers for Alcoa Inc. authorized to sign and who did sign the proffered bond are Mr. John Kenna, Vice President, Tax, and Mr. Robert S. Collins, Vice President and Controller.

7. Alcoa has submitted a statement from its counsel that Alcoa's indemnity agreement will not violate applicable State or federal laws (Exhibit E).
8. The Commission regulation at 16 TEX. ADMIN. CODE §12.309(j)(2) provides that the Commission may accept a self-bond from the applicant when the applicant meets the self-bonding requirements for a business entity set out in 16 TEX. ADMIN. CODE §12.309(j)(2)(A), (B), (C) and (D). Alcoa has met the requirements of 16 TEX. ADMIN. CODE §12.309(j)(2)(A), (B), (C) and (D).
  - (a). Alcoa has designated a suitable agent for service of process in Texas, CT Corporation System (Exhibit H, bond package, Certificate from Secretary of State). [§12.309(j)(2)(A)].
  - (b). Alcoa has been in continuous operation for a period of not less than 5 years immediately preceding the date of application (since 1888) and has not been subject to bankruptcy proceedings during that time (Exhibit E, bond package). [§12.309(j)(2)(B)].
  - (c). By letter dated January 21, 2015 Alcoa submitted unaudited financial statements for the fiscal year ending December 31, 2014. By letter dated February 20, 2015 Alcoa submitted the audited financial statements for the financial year ending December 31, 2014. As required by the Regulations, for the period ending December 31, 2014, the auditors' statement contains no adverse opinion [§12.309(j)(2)(D)].

Alcoa has submitted financial information in sufficient detail to show that it meets one of the criteria for acceptance of self-bonding listed in §12.309(j)(2)(C). Meeting at least one of the criteria is a prerequisite for approval of self-bonding, in addition to meeting the requirement addressed in subsection (d) of this Finding of Fact (net worth requirement). Alcoa meets the requirement set out in §12.309(j)(2)(C)(ii): Staff legal review indicates that Alcoa's tangible net worth is at least \$10,000,000, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater. (legal review Exhibit 1).

- (d). The information contained in Alcoa's application and the Staff analysis show that Alcoa meets the financial criteria for self-bonding. Alcoa has provided information showing that it meets the required elements of §12.309(j)(2)(C)(ii). Qualification under §12.309(j)(2)(C)(ii) and along with meeting the limitation that the total amount of outstanding and proposed self-bonds does not exceed 25% of the applicant's tangible net worth in the United States [§12.309(j)(4)(A)]. Alcoa has provided information showing that it meets the 25% limitation.

- (i). Alcoa meets the requirements of §12.309(j)(2)(C)(ii) for tangible net worth, ratio of total liabilities to net worth, and ratio of current assets to current liabilities.
- (ii). Alcoa meets the requirement that its tangible net worth must be at least \$10,000,000; Alcoa's tangible net worth [as defined by §12.309(j)(1)(I), Regulations, net worth minus intangibles such as goodwill and rights to patents and royalties] is \$5,247,000,000 [Net worth, \$14,794,000,000, minus goodwill (\$5,247,000,000), minus intangibles (\$737,000,000), equals \$8,810,000,000]. Alcoa meets the requirement that it must have a ratio of total liabilities to net worth of 2.5 times or less; Alcoa's ratio is 1.53 [Total liabilities (\$22,605,000,000), to net worth (\$14,794,000,000) equals a ratio of 1.53.]. In addition, Alcoa must meet the criteria of current assets to current liabilities of 1.2 times or greater; Alcoa's ratio of current assets to current liabilities is 1.49 [Current assets (\$8,269,000,000) to current liabilities (\$5,541,000,000) equals a ratio of 1.49]. Alcoa's ratio of current assets to current liabilities meets the criteria of §12.309(j)(2)(C)(ii). (Application and Bond Package and Commission's Financial Services analysis dated March 6, 2015 and the Commission's Office of General Counsel's legal analyses also dated March 6, 2015).
- (iii). The Regulations at 16 TEX. ADMIN. CODE §12.309(j)(4)(B) provide that for the Commission to accept an applicant's self-bond pursuant to qualification by 16 TEX. ADMIN. CODE §12.309(j)(2)(A), (B), (C), and (D), the total amount of the applicant's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25% of the applicant's tangible net worth in the United States (U.S.). The proposed increased self-bond amount with other Alcoa self-bonds in other states is approximately .95% of Alcoa's tangible net worth in the U.S. Alcoa provided no figures for its tangible net worth in the U.S. To arrive at this figure, Staff used Alcoa's figure for long-lived assets in the U.S., \$5,403,000,000 (Form K, Bond Package, Exhibit J, and Exhibit K) and compared it to Alcoa's total world-wide long-lived assets (\$16,426,000,000) to derive a percentage attributable to U.S. long-lived assets, 32.893%. This percentage was then applied to Alcoa's total net worth, \$8,810,000,000, to arrive at the net worth attributable to long-lived assets in the U.S. (tangible net worth in the U.S), \$2,897,873,300. The total amount of self-bonds was then compared to Alcoa's tangible net worth in the U.S., to arrive at percentage to compare to the 25% limitation. By memorandum from the Financial Services Division dated March 6, 2015 and the Office of General Counsel by letter also dated March 6, 2015, financial staff concurred with Staff's analysis of tangible net worth in the U.S. Alcoa has no other self-bonds for coal mining reclamation other than the proffered self-bond. Dividing \$27,250,000 by \$2,897,873,300 (tangible net worth in the U.S.) provides

the percentage of tangible net worth in the U.S. made up of the proposed and outstanding self-bonds, .95%. The amount of proposed and outstanding bonds for surface mining reclamation does not exceed 25% of Alcoa's tangible net worth in the U.S.

- (iv). In addition to the criteria set out in §12.309(j)(2)(c)(ii), Alcoa also meets the separate criteria for self-bonding as set out in §12.309(j)(2)(C)(iii):
  - (A). Alcoa's fixed assets in the U.S., defined in the Regulations as plant and equipment, but not land or coal in place [§12.309(j)(1)(C)], total at least \$20 million. Alcoa's fixed assets in the U.S., property, plant, and equipment, less land and coal in place, total \$5,403,000,000.
  - (B). Alcoa has a ratio of total liabilities (\$66,605,000,000) to net worth (\$14,794,000,000) of 2.5 times or less, that is, 1.53 [(Finding of Fact No. 8(d)(2))].
  - (C). Alcoa's ratio of current assets (\$8,269,000,000) to current liabilities (\$5,541,000,000) is 1.49, meeting the requirement that it must be at least 1.2 times or greater [Finding of Fact No. 8(d)(2)].
  - (D). Alcoa meets the requirement that the total amount of its self-bond guarantees (\$27,250,000) must not exceed 25% of its tangible net worth in U.S. (\$2,897,873,300).. [Finding of Fact No. 8(d)(3)].

- 9. Based upon the application, bond, and other evidence submitted by Alcoa and Commission Staff, the Commission finds that the application meets the financial requirements for approval of a self-bond pursuant to the criteria set out in §12.309(j)(2)(C)(ii) and separate criteria set out in §12.309(j)(2)(C)(iii). A proposed order was circulated to Alcoa and Staff for comment. Neither party filed objections to the proposed order, and each filed waivers of the preparation and circulation of a proposal for decision.
- 10. The Commission also approves continued compliance with §12.311 for minimum liability insurance coverage by proof of self-bonding in accordance with §12.309(j)(2). An applicant that is self-bonded may be considered to meet self-insurance requirements (§12.311). Alcoa meets the requirements for self-bonding as set out in the Findings of Fact contained in this Order.
- 11. Alcoa has submitted the required audited financial statement for its fiscal year ending December 31, 2014. The statement was accompanied by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit or review opinion of the financial statement. The auditor's report contains no adverse opinion. Sufficient financial information has been submitted showing compliance with §12.309(j)(2)(D) of the Regulations requiring submittal of these

statements. No changes in the financial conditions of the applicant have occurred that would affect Alcoa's qualifications to self-bond.

12. Alcoa will immediately notify the Commission if financial conditions change so that the financial criteria are no longer met and will provide an alternate form of bond in the same amount as the self-bond as required by § 12.309(j)(7) of the Regulations.
13. The indemnity agreement contains the required undertaking by Alcoa to complete the reclamation plan for lands in default or to pay to the Commission an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.
14. The designation of the agent for service of process, history of continuous operation, financial solvency, financial data on tangible net worth, ratio of total liabilities to net worth, and ratio of current assets to current liabilities; audited financial statement; recent unaudited financial data; and the percentage of the proposed bond amount compared to Alcoa's tangible net worth in the United States qualify Alcoa to be self-bonded in the amount of \$27,250,000.00.
15. The self bond in the amount of \$27,250,000.00 assumes the existing reclamation obligations and replaces the existing bond coverage of Permit No. 1F.
16. Acceptance of the proffered bond will allow the existing bond in the amount of \$27,250,000 to be replaced upon the acceptance of this bond. The release of this replaced bond is not a release of reclamation obligations.
17. No public notice has been provided or is required. The replacement bond procedure is not a release of reclamation obligations requiring public notice. All notice of consideration of the matter by the Commission has been made, and the parties have received notice of the proposed order and opportunity to file exceptions and replies. Comments regarding the order were filed; no exceptions were filed.
18. No revisions to the approved bond map are necessary at this time in that no additional operations are approved in this docket. Application of the new bond to areas other than those as shown on the approved bond maps will require acceptance of revised bond maps and an examination of the adequacy of the bond.
19. Alcoa Inc. is current in the payment of required franchise taxes through March 31, 2015 as required by TAX CODE §§171.001 *et seq.* (Vernon Supp. 2014) (Comptroller Certificates of Account Status).

**CONCLUSIONS OF LAW**

Based on all the Findings of Fact, the following Conclusions of Law are made:

1. The Commission has jurisdiction pursuant to §134.13 of the Act and §12.309(j)(2) of the Regulations to consider this application.
2. Alcoa has presented information to show that it complies with the financial criteria set out in §§12.309(j)(2)(C)(i) and 12.309(j)(2)(C)(ii) of the "Coal Mining Regulations" for approval of the self-bond. The Commission may accept the self-bond and is authorized to accept self-insurance based on self-bonding (§12.311 and Finding of Fact No. 9).
3. Acceptance of the proffered self-bond will allow the replacement of the currently accepted bond.
4. The application for bond replacement is not a release of reclamation obligations for which public notice is required, nor is public notice required pursuant to §12.226(a)(3), specifying public notice prior to a request to continue operation after the cancellation or material reduction of liability insurance or performance bond. Open meeting notice of consideration of this application has been provided (TEX. GOV'T CODE §551.048 (Vernon Supp. 2014)). All required notice has been made.

**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 the self-bond provides required bonding for reclamation performance as approved by the Commission based on Alcoa's compliance with the financial criteria set out in §12.309(j)(2)(C)(ii); and

**IT IS FURTHER ORDERED** that the self-bond provides required bonding for reclamation performance as approved by the Commission based on Alcoa's compliance with separate financial criteria set out in §12.309(j)(2)(C)(iii); and

**IT IS FURTHER ORDERED** that Alcoa's self-bond of Alcoa in the amount of \$27,250,000 is accepted for Permit No. 1F and replaces the current collateral-bond with Letter of Credit in the amount of \$27,250,000; and

**IT IS FURTHER ORDERED** that revision to the operations or reclamation plan requires approval by the Director or Commission in accordance with the Act and Regulations; and

**IT IS FURTHER ORDERED** that the amount of bond required and the terms of each acceptance of bond shall be adjusted by the Commission from time to time as affected land acreages are 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. 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 IN AUSTIN, TEXAS, this 8th day of April, 2015.

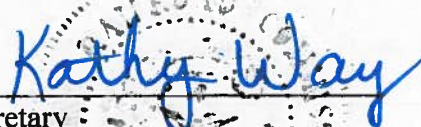
RAILROAD COMMISSION OF TEXAS

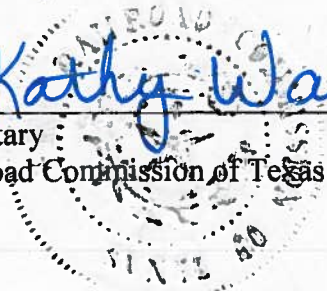
  
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CHAIRMAN CHRISTI CRADDICK

  
\_\_\_\_\_  
COMMISSIONER DAVID PORTER

  
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COMMISSIONER RYAN SITTON

ATTEST:

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





**RAILROAD COMMISSION OF TEXAS**  
Surface Mining and Reclamation Division  
Self Bond for Surface Mining and Reclamation Permit

Permit No.: 1F

Mine Name: ALCOA INC. SANDOW SURFACE MINE

Permittee: ALCOA INC.

(hereinafter referred to as the "Principal")

This instrument  does  does not (check appropriate response) replace an existing bond, described as:

COLLATERAL BOND - LETTER OF CREDIT for \$27,250,000 for PERMIT NO. 1F - SANDOW SURFACE MINE - ACCEPTED APRIL 16, 2014 (Letter of Credit #143095-793)

**KNOW ALL BY THESE PRESENTS** [Note: Recitals may be modified as necessary to address permit revisions, renewals, consolidations]:

**WHEREAS**, as the above bound Principal-Permittee submitted to the Railroad Commission of Texas, Surface Mining and Reclamation Division, an application for a permit to engage in surface mining, which application included a proposed reclamation plan; and

**WHEREAS**, said permit application (including the proposed reclamation plan) was approved on the 7 day of FEBRUARY, 2012; and

**WHEREAS**, the granting of a permit is conditioned in part on the Principal-Permittee's posting bond to insure the faithful performance of all requirements of the Principal-Permittee under the Texas Surface Coal Mining and Reclamation Act, Texas Natural Resources Code, § 134.001 et seq., (hereinafter referred to as the "Act"); regulations adopted under the Act, 16 TAC § 12.004 et seq., (hereinafter referred to as the "Coal Mining Regulations"); and the Permit as amended, renewed, revised, or replaced;

**THAT, ALCOA INC.**

as Principal-Permittee, is held and firmly bound unto the State of Texas in the full sum of TWENTY-SEVEN MILLION TWO HUNDRED TWENTY FIVE THOUSAND United States Dollars (\$ 27,250,000 U.S.), well and truly to be paid to the State of Texas in Austin, Travis County, Texas, and Principal-Permittee binds itself, its heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

**NOW, THEREFORE**, the conditions of this obligation are such that if the above bound Principal-Permittee shall faithfully and fully perform the requirements set forth in the Act, the Coal Mining Regulations, and the Permit as amended, renewed, revised, or replaced, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

And the Principal-Permittee, for value received, agrees that no amendment to existing laws, rules, or regulations, no adoption of new laws, rules, or regulations, and no amendment, renewal, revision, or replacement of the Permit (including the reclamation plan) shall in any way alleviate its obligation on this bond, and it does hereby waive notice of any such amendment, adoption, renewal, revision, or replacement.

The Principal-Permittee further agrees to give prompt notice to the Railroad Commission: (1) of any notice received or action filed alleging its insolvency or bankruptcy; or (2) if it becomes unable, or unwilling, to fulfill its obligation under this bond.

Self Bond of ALCOA INC. (Principal-Permittee)

It is agreed that this bond shall be in full force and effect for the duration of the reclamation obligation on the land affected by the Permit as amended, renewed, revised, or replaced or until the Principal-Permittee is otherwise relieved of its obligation by order of the Railroad Commission of Texas.

If this is a replacement bond, Principal Permittee further agrees that any liability which has accrued against it under the Act, the Coal Mining Regulation, or the Permit as originally issued, amended, revised, reviewed, or replaced, is transferred to this Bond.

It is further agreed that upon incapacity of the Principal-Permittee, or the Third-Party Guarantor if this bond is guaranteed, by reason of bankruptcy or incapacity, or for any other reason, Principal-Permittee shall be deemed to be without bond coverage in violation of the Act, the Coal Mining Regulations, and the Permit, and the Principal-Permittee shall discontinue surface coal mining operations until new performance MINE - ACCEPTED APRIL 16, 2014 (Letter of Credit #143095-793) construed as a waiver of the Commission's ability to enforce the Act, the Coal Mining Regulations, or the Permit, or to seek bond forfeiture in accordance with the provisions of the Act, the Coal Mining Regulations, or this instrument.

IN WITNESS WHEREOF, the Principal-Permittee has caused these presents to be duly signed and sealed this 14 Day of January, 2015.

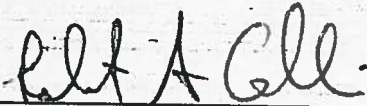
ALCOA INC.  
PRINCIPAL-PERMITTEE

201 ISABELLA STREET PITTSBURGH, PA 15212-5858  
Address

By:   
Signature

JOHN KENNA  
Typed Name

VICE PRESIDENT - TAX  
Title

By:   
Signature

ROBERT S. COLLINS  
Typed Name

VICE PRESIDENT AND CONTROLLER  
Title

Attest 

JANET F. DUDERSTADT  
Typed Name

Seal of Alcoa Inc.

GROUP COUNSEL, GLOBAL ROLLED PRODUCTS AND ASSISTANT SECRETARY  
Title

Accepted: 4-8-15

Christi Claddick  
CHAIRMAN, Railroad Commission of Texas

David Patten  
COMMISSIONER, Railroad Commission of Texas

Ben Pitt  
COMMISSIONER, Railroad Commission of Texas

Attest Kathy Way

NOTE: The following documents should be submitted to the Commission along with the original self-bond: (1) original certified corporate resolution and certificate of incumbency, and (2) affidavit certifying that this instrument is valid under all applicable State and Federal laws.