

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

SMRD DOCKET NO. C14-0006-SC-01-F

**APPLICATION OF ALCOA, INC. FOR PHASE I, II AND III RELEASE OF
RECLAMATION OBLIGATIONS, 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 initially applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for Phase I, II and III release of reclamation obligations for a total of 27.7 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 2014), and “Coal Mining Regulations” Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE Ch. 12 (West 2014).

Permit No. 1F currently authorizes surface coal mining operations at Alcoa’s Sandow Mine within its 10,504.0-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 III reclamation obligations for 24.4 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 \$111,895.96 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 30, 2013, Alcoa filed its application for Phase I, II and III release on 27.7 acres. The proposed release area is located in Milam County, Texas, within the permit area of Permit No. 1F, Sandow Mine. The Sandow Mine encompasses 10,504.0 acres in Milam and Lee Counties.
2. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon 2014) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch. 12 (West 2014). No filing fee is required. The application was properly certified in accordance with §12.312(a)(3).
3. The Director of the Surface Mining and Reclamation Division declared the application administratively complete on June 11, 2014. Staff's Technical Analysis (TA) was filed with the Hearings Division by memorandum dated September 12, 2014. Staff's TA did not recommend release from Phase I, II and III reclamation liability for the 27.7 acres initially requested by Alcoa.
4. By letter filed with Docket Services December 11, 2013, Alcoa requested that review of the above-referenced application be temporarily suspended, pending the completion of submitting a supplementation to comments raised by staff to the initial application. By letter dated April 23, 2014, Alcoa requested that review of the application be resumed. Alcoa submitted Supplement No. 1 by letter dated October 16, 2014, containing additional information to address the concerns of staff raised in the TA. Addendum No. 1 to Staff's TA and revised the boundry of the 27.7-acre area proposed for release removing all areas determined to be undisturbed by mining-related

activities. Alcoa's revised map seeks the release of reclamation liability on 24.4-acre area. Staff filed an amended inspection report with the Hearings Division on January 9, 2015 recommending the release of reclamation liability on 24.4-acres.

5. Alcoa does not request a reduction in the amount of the approved reclamation bond. The existing reclamation bond for the entire permit area, in the amount of \$27,250,000 accepted by Order dated March 24, 2015.
6. The revised 24.4-acre area proposed for Phase I, II and III release from reclamation liability is detailed in the Staff Evaluation, Attachment I (Maps 1), Attachment IV (Staff Inspection Report), and Appendix IV (Inspection Photographs and Inspection Photograph Locations). The maps and photographs provide support of the application and the inspection report.
7. The 24.4 acres recommended for release are bonded at the mined category rate of \$4,169 per acre.
8. The post-mine land use within the proposed release area is industrial/commercial.
9. By letters dated May 1, 2014, Alcoa sent notice to owners of interests in the areas requested for release and adjacent lands.
10. Notice of the application was published once a week for four consecutive weeks (May 1, 8, 15, and 22, 2014) in the *Rockdale Reporter*. The *Rockdale Reporter* is a newspaper of general circulation in Milam County, which is the locality of the 24.4-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 June 3, 2014.

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 78701, and in the office of the Milam County Clerk, 100 South Fannin, Cameron, Texas 75840.
12. 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 (TCEQ), 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.
13. Staff mailed letters pursuant to §12.312(b) dated October 3, 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 29, 2013. In addition, the Staff sent

notice by certified mail to the Milam and Lee County Judges on June 12, 2014, as required by §134.133 of the Act.

14. 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).
15. On October 29, 2013, Staff, accompanied by representatives of Alcoa, conducted its inspection of the area requested for release. The field report supports release of Phase I, II, and III reclamation obligations for the requested 24.4-acre area.
16. The area proposed for release of reclamation liability is an Industrial/Commercial (I/C) facility and was never subjected mining operations.
17. All acreage requested for release from Phase I reclamation obligations (24.4 acres) has been graded to meet the land use of I/C and has met Phase I requirements for §12.385 (General Grading Requirements), backfilling, regrading, and drainage control as required by §12.312(a)(1) of the Regulations and may be approved for Phase I release.
18. The requested 24.4-acre area requested for release from Phase I meets the requirements of §12.386, Covering Coal and presence of acid and/or toxic-forming materials. The acreage was never subjected to mining operations and therefore no acid-forming or toxic forming materials should be present within the top four feet of soil.
 - (1) The areas requested for Phase I release are stable with no active erosion evident.
 - (2) One diversion is located within the area proposed for Phase I release of reclamation liability. The one drainage structure, the Wash Rack Pond emergency spillway, approved as permanent in Revision No. 41, is located in the area proposed for Phase I release. The drainage structure conveys flow from the Wash Rack Pond to the Facility Pond. No other

drainage structures located in the proposed release area. [§12.341].

- (3) Two permanent impoundments, the Wash Rack Pond and the Facility Pond are located with the proposed Phase I release area. The two permanent impoundments meet the requirements as Permanent Impoundments under §12.347(b) and where approved by Staff in revision No. 41 by letter dated April 21, 2014.
- (4) The application for release meets the requirements of §12.400(f) for Permanent (Reclamation) Roads. Portions of three roads are within the area for Phase I release. Alcoa indicated in Supplement No. 1 that the predominate uses of the portions of the subject roadways (the Gate Access Road, the Main Access Road and the C2C3 Road) within the 24.4-acre area are to support various Industrial/Commercial, non- mining-related activities.
- (5) Surface water runoff from all areas proposed for Phase I release of reclamation obligations flows to the C-Area End Lake. [§12.343].
- (6) There are no waste disposal areas within the proposed Phase I release of reclamation area. [§12.375].

19. All acreage requested for release from Phase I reclamation obligations (24.4 acres) has met Phase I requirements for revegetation. The area proposed for Phase II release has a postmine land use of Industrial/Commercial. The ground –cover performance standard for I/C is that it be adequate to control erosion. 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 24.4-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 24.4 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) The vegetative groundcover, crushed rock, concrete and asphalt are adequate to control erosion. [§12.395].
 - (4) No portions of the area proposed for Phase II release of reclamation liability has soils classified as prime farmland prior to mining. (§§12.620-.625).
 - (5) Drainage from the area proposed for Phase II release flows into the C-Area End Lake. No silt dams are present within the area proposed for Phase II release of reclamation liability. The proposed release area has been stabilized with vegetation and road surfacing to reduce the potential for contributing suspended solids to stream flow. [§12.340].
20. The 24.4 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]. Ground cover data Alcoa provided to staff by letter dated September 24, 2014, containing ground-cover data collected during the 2014 growing season demonstrated that the vegetated areas of the 24.4-acres to be released is adequate to control erosion. [§12.395(b)(4)].
21. 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).

22. 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 24.4-acre area requested for release.
- (1) In addressing the requirements of §12.348, despite release area never having been mined and only incurring surface disturbance, Alcoa has submitted ground-water monitoring data for the overburden, spoil and underburden wells 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 mined areas adjacent to the proposed release area have been destroyed; however, they constituted only minor aquifers. The underburden aquifers in the Sandow Mine area are sands of the Simsboro Formation 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's initial bond release application listed two (2) monitoring wells, 2A1 and 2A2, as being within the area requested for release but did not provide an evaluation of ground-water data from any specific set of its approved long-term ground-monitoring (LTGM) wells. In Alcoa's supplement it stated that the two wells were not part of Alcoa's approved long-term groundwater monitoring plan. By letter dated September 30, 2014,

Alcoa submitting plugging reports for the two monitoring wells. No LTGM well is available that would directly monitor downgradient movement of dissolved constituents out of the spoil mass. The closest downgradient well, overburden LTGM well AX2077, is located south of the proposed release area; however, Alcoa's active ash disposal area is situated between the proposed release area and the well. Nevertheless, Staff evaluated the water level and parameter trends in LTGM well AX2077.

- (5) Adjacent reclaimed-area water quality appears to have followed trends expected from the PHC determination and CHIA for this mine. The water in a few spoil monitoring wells, including long-term Wells SP-29 and SP-36 (approximately 12,500ft southwest and 9,000ft northeast, respectively, of the proposed release area), appear to have reached maximum TDS (total dissolved solids) concentrations and either remain steady or are currently decreasing. Well SP-21 (approximately 10,400ft south of the proposed release area) shows TDS concentrations averaging 3,420 mg/L, with a very slight upward trend. The water quality in spoil monitoring wells with long-term records are similar, with TDS concentrations ranging from slightly less than 3,500 mg/L to slightly more than 4,000 mg/L.
- (6) Long-term quarterly monitoring data for the overburden and underburden hydrologic units in areas within and adjacent to the proposed area of release do not indicate that any significant impacts have occurred to water quantity and quality. The baseline TDS concentrations from the nearest overburden monitoring well AX2077 (approximately 7,000 ft southeast of the proposed release area) has been continuously monitored since the mid-2000s and has remained generally steady since 2006, ranging from 582 mg/L to

annual average maximum TDS concentration for Stream Segment No.1212 (Somerville Lake).

- (6) Staff determined the flow weighted, average annual TDS concentration for LTSM Station No.7 by year. LTSM Station No.7 has had an upward trend for TDS concentrations between 2007 and 2010; however, Staff recommends Phase III release of reclamation obligations for the 24.4-acre parcel because of the approved industrial/commercial postmine land use.
24. The 24.4-acre area for which bond release is requested in this application is bonded at a rate of \$4,169 per acre, for a total of \$101,723.60. Factoring in administrative costs of 10%, the eligible bond reduction amount, based upon the Findings of Fact contained in this Order and Staff calculations, is \$111,895.96 ($\$101,723.60 + \$10,172.36$). No reduction of the \$27,250,000 bond approved by Order dated April 8, 2015 is requested in this application and 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 I, II and III for the 24.4-acre area requested, as set out in the Findings of Fact.
5. An eligible bond reduction amount for use in reclamation cost estimates of \$111,895.96 may be determined.

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 I, II, and III reclamation obligations for 24.4 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, as a result of the Phase I, II, and III release of 24.4 acres, the Commission approves an eligible bond reduction amount of \$111,895.96;

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

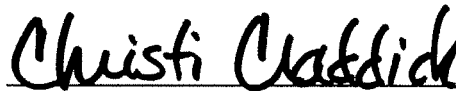
IT IS FURTHER ORDERED by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is mailed. If a timely

Alcoa Inc.
Docket No. C14-0006-SC-01-F

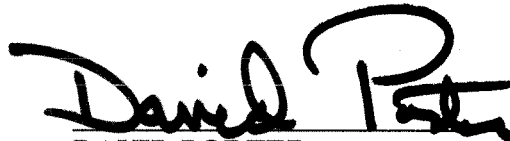
motion for rehearing is filed by any party of interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission 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 12th day of May, 2015.

RAILROAD COMMISSION OF TEXAS



CHRISTI CRADDICK
CHAIRMAN



DAVID PORTER
COMMISSIONER



RYAN SITTON
COMMISSIONER

ATTEST

SECRETARY

