

DEPARTMENT OF DEFENSE**Department of the Army, Corps of Engineers****Intent To Prepare an Environmental Impact Statement (EIS) on an Application for a Department of the Army Permit Under Section 404 of the Clean Water Act by Alcoa Inc. for Construction and Operation of the Three Oaks Surface Lignite Mine in Lee and Bastrop Counties, TX**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Fort Worth District (USACE), intends to prepare an Environmental Impact Statement (EIS) to assess the environmental, social, and economic effects of issuance of a Department of the Army permit under Section 404 of the Clean Water Act for discharges of dredged and fill material into waters of the United States associated with the proposed construction and operation of a surface lignite mine. In the EIS, the USACE will assess potential impacts associated with a range of alternatives.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about the proposed action and EIS, please contact Ms. Jennifer Walker, Regulatory Project Manager, by letter at Regulatory Branch, CESWF-PER-R, U.S. Army Corps of Engineers, P.O. Box 17300, Fort Worth, Texas 76102-Texas 76102-0300 or by telephone at (817) 978-7547.

SUPPLEMENTARY INFORMATION:

1. Description of the Proposed Project: The applicant, Alcoa, Inc. (Alcoa), proposes to construct and operate the Three Oaks Lignite Mine in Lee and Bastrop Counties, Texas. The Three Oaks Mine lands are in the Brazos and Colorado River basins in east central Texas. The mine would be located to recover lignite from the Wilcox lignite belt, and would be located adjacent to the Alcoa Sandow Mine, which lies immediately to the Northeast of the proposed mine near Rockdale, in Milam and Lee Counties, Texas. The Sandow Mine has been operated by Alcoa since the early 1950s.

Alcoa currently intends to supply approximately 6 million tons per year of lignite to electric power generation plants owned by Alcoa and TXU that supply power to the Alcoa Rockdale Aluminum Smelter. A portion of the electricity generated by TXU is distributed over the TXU electric grid. At a rate of 6 million tons per year, Alcoa estimates that the proposed mine

contains over 30 years of lignite fuel for these purposes.

Based upon current mining technologies and costs and the current rate of mining, the Sandow Mine will reach the end of its useful life in approximately five years. The primary purpose of Alcoa's proposed Three Oaks Mine is to continue to provide to provide a long-term source of energy to allow the continued operation of Alcoa's Rockdale aluminum smelter. Alcoa has stated that, to serve this purpose, the energy source must meet the following criteria: (1) Generate, or be used to generate, sufficient amounts of electricity, (2) be delivered to the smelter at a total cost that is stable, predictable, and low enough to sustain the economic viability of the smelter, (3) be available on a secure, firm, and continuous basis over a 30 year period, and (4) be available for use when the existing Sandow Mine is no longer a source of economically-recoverable lignite reserves (five years).

The USACE has received an application for a Department of the Army permit under Section 404 of the Clean Water Act from Alcoa to construct and operate the proposed mine. In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) the USACE has determined that issuance of such a permit may have a significant impact on the quality of the human environment and, therefore, requires the preparation of an EIS.

2. Alternatives: Alternatives available to the USACE are to: (1) Issue the Department of the Army permit; (2) issue the Department of the Army permit with special conditions; or (3) deny the Department of the Army permit. Alternatives available to Alcoa include: (1) Constructing and operating the new Three Oaks Mine as proposed by Alcoa; (2) constructing and operating the new Three Oaks Mine as proposed by Alcoa, with modifications; (3) developing or acquiring other energy sources, including purchasing power from the electrical grid, converting the existing power plants to utilize western coal, or converting to the use of natural gas; or (4) no action.

3. Scoping and Public Involvement Process: A public meeting (open house format) to gather information on the scope of the EIS, including the issues to be addressed in detail in the document will be conducted on August 21, 2001, from 3 to 9 p.m at the American Legion Hall located on the south side of U.S. Highway 77, one mile south of U.S. Highway 290, in Giddings, Texas.

4. Significant Issues: Issues to be given significant analysis in the EIS are

likely to include, but will not be limited to: The effects of mining activities on the mine's neighbors and nearby communities; streams, wetlands, surface water quantity and quality, groundwater quantity and quality, geologic resources, vegetation, fish and wildlife, threatened and endangered species, soils, prime farmland, noise, light, aesthetics, historic and pre-historic cultural resources, socioeconomics, land use, public roads, and air quality.

5. Cooperating Agencies: At this time, no other federal or state agencies are expected to be cooperating agencies in preparation of the EIS. However, numerous federal and state agencies, including the U.S. Office of Surface Mining, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Railroad Commission of Texas, the Texas Natural Resource Conservation Commission, the Texas Parks and Wildlife Department are expected to be involved in the preparation of, and provide comments on, the EIS.

6. Additional Review and Consultation: Compliance with other federal and state requirements that will be addressed in the EIS include, but will not be limited to, state water quality certification under Section 401 of the Clean Water Act, compliance with the Railroad Commission of Texas regulations regarding surface coal mining, protection of water quality under the Texas Pollutant Discharge Elimination System, protection of air quality under the Texas Air Quality Act, protection of endangered and threatened species under Section 7 of the Endangered Species Act, and protection of cultural resources under Section 106 of the National Historic Preservation Act.

7. Availability of the Draft EIS: The Draft EIS is projected to be available by April 2002. A public hearing will be conducted following the release of the Draft EIS.

Dated: July 12, 2001.

Gordon M. Wells,

Colonel, Corps of Engineers, District Engineer.

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DEPARTMENT OF EDUCATION**Arbitration Panel Decision Under the Randolph-Sheppard Act**

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on December 26, 2000, an arbitration panel rendered a decision in the matter of *California Department of Rehabilitation v. General Services Administration* (Docket No. R-S/99-1). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b) upon receipt of a complaint filed by petitioner, the California Department of Rehabilitation.

FOR FURTHER INFORMATION: A copy of the full text of the arbitration panel decision may be obtained from George F.

Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington, DC 20202-2738. Telephone: (202) 205-9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d-2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

This dispute concerns the alleged improper termination by the General Services Administration (GSA) of a vending permit held by the California Department of Rehabilitation, the State licensing agency (SLA), at the Roybal Building in Los Angeles, California, pursuant to the provisions of the Act (20 U.S.C. 107 *et seq.*) and the

implementing regulations in 34 CFR part 395.

A summary of the facts is as follows: On August 3, 1993, the SLA and GSA entered into a permit agreement to establish a vending facility, including vending machines, at the Roybal Building, 255 East Temple Street, Los Angeles, California. The SLA assigned a permanent vendor to this location with the participation and approval of GSA.

Initially the services provided at the Roybal building consisted primarily of vending machines, but in 1996 GSA remodeled its lobby area to construct a larger facility that provided customers with coffee and various other food items. After completing the remodeling of the vending facility, GSA cancelled the 1993 permit and issued a new permit to the SLA to operate the remodeled facility in the lobby. It was the position of GSA that the newer remodeled facility constituted a new facility that warranted the SLA to conduct a selection process for a vendor to manage the remodeled facility.

Conversely, the SLA took the position that GSA had no right to cancel the 1993 vending permit and that the remodeled facility was not a new facility within the meaning of State rules and regulations that would provide for a new vendor selection process.

The SLA alleged that the real issue focused on GSA's complaint that the vendor, who had been providing service prior to the remodeling of the vending facility, was considered by GSA to be unqualified and unacceptable to manage the remodeled vending facility. The SLA further alleged that GSA demanded that the SLA initiate a selection process for a new vendor to manage the remodeled vending facility only after the facility had been remodeled.

Following the cancellation of the 1993 permit and the SLA's refusal to place another vendor at the facility, GSA awarded a contract to a private concessionaire to operate the Roybal vending facility.

Arbitration Panel Decision

The panel, after considering all of the evidence, ruled that GSA violated the Act and implementing regulations. GSA had no authority to unilaterally cancel the vending permit agreement signed in 1993 between itself and the SLA, since there was no evidence of noncompliance by the SLA with its terms. GSA's issuance of a new permit in 1996 was simply an updated version of the original permit agreement between GSA and the SLA in 1993.

The panel further stated that the new 1996 permit, which essentially upgraded the 1993 permit, obligated

GSA to provide a vending facility at the Roybal Building to the SLA so that it could place a qualified blind vendor pursuant to the Act. Additionally, the SLA's original blind vendor had the right to continue to operate the relocated vending facility.

The violations of the Act and the regulations by GSA caused both the SLA and the blind vendor to suffer damages. The damages to the SLA include loss of revenue generated from the blind vendor, which amounts to 6 percent of the net proceeds of the blind vendor. The SLA is also entitled to a fair market rental for its equipment during the time it was being used by GSA.

Finally, the panel instructed GSA that it had 30 days from the date of the panel's decision to provide the SLA with evidence of the blind vendor's lack of qualifications to operate the Roybal Building vending facility; otherwise, GSA would be liable for damages to the blind vendor. The panel ruled that the damages would be the difference between what he had been able to earn and what the private concessionaire earned during the transition period when the SLA was not managing the Roybal Building vending facility, plus interest.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: July 16, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

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DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Friday, August 3, 2001—3:30 p.m.—9 p.m.

Saturday, August 4, 2001—8 a.m.—4 p.m.

ADDRESSES: Rothchild's, 8807 Kingston Pike, Knoxville, TN.