



# Environmental Appeal Board

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Decision No: 2014-EMA-003(f); 2014-EMA-004(f); 2014-EMA-005(f)

Appeal No. 2014-EMA-003  
2014-EMA-004  
2014-EMA-005

## *Environmental Appeal Board*

Between:

ELISABETH STANNUS, EMILY TOEWS, and  
UNIFOR LOCAL 2301

Appellants

And:

DELEGATE OF THE DIRECTOR,  
*ENVIRONMENTAL MANAGEMENT ACT*

Respondent

And:

RIO TINTO ALCAN INC.

Third Party

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## CONSENT ORDER

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ON THE APPLICATION of the parties, without a hearing and by consent;

THE BOARD ORDERS under section 16 of the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 that:

1. Pursuant to section 103(c) of the *Environmental Management Act*, S.B.C. 2003, c. 53 (the “**Act**”), Rio Tinto Alcan Inc. (“**RTA**”)’s P2-00001 Multimedia Permit (“**Permit**”) is amended as follows:
  - a. The following clause is added after clause 4.2.5:

4.2.5.1 The “impact threshold criteria” under clause 4.2.5 for human health shall be the Human Health Key Performance Indicator (“KPI”) as defined in clause 4.2.5.2.

4.2.5.2 The Human Health KPI under this permit is defined as the following air quality standards:

Until January 1, 2020, the Human Health KPI is the 1-hour Interim Provincial Ambient Air Quality Objective for SO<sub>2</sub>. From January 1, 2020 onwards, the Human Health KPI is the 1-hour Provincial Ambient Air Quality Standard for SO<sub>2</sub>.

4.2.5.3 The EEM plan referred to in clause 4.2.5 forms part of this permit. If there is any inconsistency between this permit and the EEM plan, this permit prevails to the extent of the inconsistency.

b. Clause 4.2.6 is replaced with the following:

4.2.6 Comprehensive EEM Plan Review

On or before October 31, 2019, the Permittee shall submit to the Director a draft comprehensive review of EEM Plan results from 2012 to 2018. If there is an exceedance of the Human Health KPI, then the Permittee must implement mitigation action to reduce emissions of SO<sub>2</sub> from the smelter.

The assessment of Human Health KPI exceedance will be conducted on an annual basis, thereafter. If there is an exceedance of the Human Health KPI, then the Permittee must implement mitigation action to reduce emissions of SO<sub>2</sub> from the smelter.

c. The following clause is added after clause 4.2.7:

4.2.7.1 The Permittee shall post KPAC minutes and information, with the exception of proprietary information, to a public facing website.

d. The following clauses are added:

4.2.8 The following ambient air quality monitoring stations will be used to assess attainment of the Human Health KPI: Riverlodge, Whitesail, and Kitamaat Village.

4.2.9 Phase two of the rationalization of the air monitoring stations under the EEM Plan will proceed, excluding the multi-seasonal study.

2. Pursuant to section 103(c) of the Act, section 3 of RTA’s Environmental Effects Monitoring Plan under the Permit is amended as follows to read:

**3.0 Human Health**

3.1 Indicators and Thresholds

The “impact threshold criteria” under clause 4.2.5 of the P2-0001 Multimedia Permit for human health shall be the Human Health Key Performance Indicator (“KPI”) as defined by the following air quality standards:

Until January 1, 2020, the Human Health KPI is the 1-hour Interim Provincial Ambient Air Quality Objective for SO<sub>2</sub>. From January 1, 2020 onwards, the Human Health KPI is the 1-hour Provincial Ambient Air Quality Standard for SO<sub>2</sub>.

### 3.2 Methods

The following ambient air quality monitoring stations will be used to assess attainment of the Human Health KPI: Riverlodge, Whitesail, and Kitamaat Village.

#### 3.2.2 Further Monitoring Stations at Service Centre

An ambient air quality monitoring station will be established by October 1, 2019 at or in close proximity to the Service Centre, subject to Ministry siting requirements and property access, and will collect SO<sub>2</sub> and meteorological data (the “Service Centre Station”).

The data collected by the Service Centre Station will be made available to the public and will be considered by the Director as part of a decision under section 3.2.2.1.

The data collected by the Service Centre Station will not be used for determining attainment of the Human Health KPI under this permit before such a decision is made under section 3.2.2.1.

##### 3.2.2.1 Decision on designating the Service Centre Station to be an attainment station

Once sufficient data and information has been collected by the Service Centre Station, the Director will make a decision (as defined in section 16 of the *Environmental Management Act*) and provide reasons to the public and any potentially affected party, on whether to amend section 3.2 so that the Service Centre Station will be used to assess attainment of the Human Health KPI, or another ambient air quality standard as determined by the Director.

In making this decision, the Director must consider: the *Environmental Management Act* and associated regulations; relevant Ministry policies; the applicable air quality standards, including the Provincial Ambient Air Quality guidelines; and relevant data and information. The Director may receive information from a variety of interested parties.

The Director shall make this decision no later than 24 months from the day that the Service Centre Station is established.

If the Director decides under section 3.2.2.1 that section 3.2 shall be amended to include the Service Centre Station, the Director may consider data that the Service

Centre Station has gathered prior to the date of that decision in making any subsequent decision on whether there has been non-attainment.

### 3.3 Steps in the Event of Non-attainment of the Human Health KPI

Section 3.3 overrides Chapters 7 and 8 of the EEM Plan with respect to non-attainment of the Human Health KPI.

If potential non-attainment of the Human Health KPI is identified, the Director will review available information and data with respect to the non-attainment as well as consider exceptional events, in order to confirm the non-attainment. Meteorological conditions are not an acceptable justification for non-attainment.

If the Director determines that there is non-attainment of the Human Health KPI, the Permittee shall take action to bring the Human Health KPI into attainment by implementing mitigation measures to reduce SO<sub>2</sub> emissions.

Within 3 months of notification by the Director for the non-attainment of the Human Health KPI, the Permittee shall submit a report to the Director outlining a mitigation action plan to reduce SO<sub>2</sub> emissions that will bring the Human Health KPI into attainment. This report shall include an implementation timeline not to exceed one year.

If the Human Health KPI is not brought into attainment by the following year, the maximum allowable SO<sub>2</sub> emissions set out in clause 4.2.2 of the P2-00001 Multimedia Permit will be reduced by an amount the Director deems needed to bring the Human Health KPI into attainment. If there are other permitted emitters of SO<sub>2</sub> emissions authorized under the *Environmental Management Act* and located within the Kitimat airshed, the amount of SO<sub>2</sub> emissions reduction required under this clause shall be proportional to the percentage of the Permittee's permitted SO<sub>2</sub> emission limit as compared to the total SO<sub>2</sub> emission limit of all such permitted emitters of SO<sub>2</sub>.

The Director will consider the Permittee's proposed mitigation action plan schedule to determine when the reduced SO<sub>2</sub> emission limit will come into force and effect.

The total SO<sub>2</sub> permit reduction for the Permittee under this clause will not exceed 15 Mg/day.

#### 3.3.1 Exceptional Events

The Director may consider "exceptional events" in determining whether there is non-attainment of the Human Health KPI, to account for events that are outside the control of Rio Tinto and are time bound.

Examples of exceptional events include, but are not limited to:

- Fire within the community that may emit SO<sub>2</sub>;
- emergency conditions at the facilities within the Kitimat airshed (e.g. Rio Tinto Smelter upset conditions or LNG Canada emergency flare);

- vandalism or corruption of data from other point sources such as vehicle emissions in close proximity to the ambient air monitoring station; and
- temporary global events that impact SO<sub>2</sub> levels such as a volcano eruption.

Examples that would NOT be considered an exceptional event include, but are not limited to:

- inputs to smelting activities such as high sulphur coke;
- ongoing global SO<sub>2</sub> influences that are not temporary, such as industrial emissions;
- scheduled bypass of works for maintenance at facilities in the Kitimat airshed; and
- meteorological conditions.

3. Pursuant to section 17 the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, the following appeals are dismissed: 2014-EMA-003, 2014-EMA-004, and 2014-EMA-005.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:

“Chris Tollefson”

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Signature of lawyer for  
**ELISABETH STANNUS**

Name: \_Chris Tollefson\_\_\_\_\_

“Richard J. Overstall”

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Signature of lawyer for  
**EMILY TOEWS**

Name: \_Richard J. Overstall\_\_

“Jason Gratl”

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Signature of lawyer for  
**UNIFOR LOCAL 2301**

Name: \_Jason Gratl\_\_\_\_\_

“Stephen E. King”

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Signature of lawyer for the  
**DIRECTOR**

Name: \_Stephen E. King\_\_\_\_

“Yasser Bouhid”

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Signature of lawyer for **RIO  
TINTO ALCAN INC.**

Name: \_Yasser Bouhid\_\_\_\_\_

“Darrell LeHouillier”

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Signature of the Chair  
Environmental Appeal Board

Name: \_Darrell LeHouillier\_\_

Dated this 2<sup>nd</sup> day of August,  
2019