

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. C17-0010-SC-33-F
APPLICATION BY SABINE MINING COMPANY
FOR RELEASE OF RECLAMATION OBLIGATIONS
PHASES II AND III, 111.0 ACRES, AND PHASE III, 290.3 ACRES,
PERMIT NO. 33H, SOUTH HALLSVILLE NO.1 MINE, HARRISON COUNTY, TEXAS**

**ORDER APPROVING RELEASE
OF PHASE II and III RECLAMATION OBLIGATIONS FOR 111.0 ACRES AND
PHASE III RELEASE FOR 290.3 ACRES**

Statement of the Case

The Sabine Mining Company, 6501 Farm Road 968 West, Hallsville, Texas 75650-7413 applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for a release of Phases II and III reclamation obligations for 111.0 acres and a Phase III release of reclamation obligations for 290.3 acres. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. CH. 134 (Vernon Supp. 2016) (Act), and the "Coal Mining Regulations," Tex. Railroad Comm'n, 16 TEX. ADMIN. CODE CH. 12 (Thomson West 2016) (Regulations).

Permit No. 33H currently authorizes surface coal mining and reclamation operations at Sabine Mining Company's (Sabine) South Hallsville No.1 Mine, within its 44,401-acre permit area. No comments or requests for hearing were filed following public notice. The only parties to the proceeding are Sabine 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, Staff analyses, and the inspection of the area, Staff recommends release of reclamation obligations for all 401.3 acres requested in the application. The parties have filed waivers of preparation and circulation of a proposal for decision.

After consideration of the application and the Findings of Fact and Conclusions of Law, the Commission approves the release of reclamation obligations as recommended by Staff. Sabine has not requested an adjustment to its accepted reclamation bond instruments at this time and no new bond has been submitted; however, an eligible bond reduction amount may be determined. The Commission approves an eligible bond reduction amount of \$314,739.59 as calculated by Staff.

FINDINGS OF FACT

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

1. By letter dated October 10, 2016, Sabine Mining Company (Sabine) filed its application (Application) with the Railroad Commission of Texas' (Commission) Surface Mining and Reclamation Division (SMRD and/or Staff) for a release of Phases II and III reclamation obligations for 111.0 acres and Phase III reclamation obligations for 290.3 acres located within the South Hallsville No. 1 Mine, Permit No. 33H, located in Harrison County, Texas. Permit No. 33H was most recently renewed by the Commission on December 13, 2011 (Docket No. C8-0027-SC-33-C).
2. The Application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. CH. 134 (Vernon Supp. 2016) (Act), and the "Coal Mining Regulations," Tex. Railroad Comm'n, 16 TEX. ADMIN. CODE CH. 12 (Thomson West 2016) (Regulations). The Application was properly certified in accordance with § 12.312(a)(3). No fee is required for this Application.
3. The Application was filed with the Hearings Division by letter dated November 30, 2016. By letter dated February 1, 2017, Sabine submitted a revised draft public notice and draft notification letter, and supplemented the list of landowners and agencies to be notified in response to the Administrative Law Judge's (ALJ) review by letter dated December 21, 2016. Staff declared the Application Administratively Complete by letter dated March 13, 2017. Staff filed its Technical Analysis (TA) and the December 16, 2016, Field Inspection Report (Inspection Report) by letter dated March 17, 2017, recommending approval of the bond release application with no outstanding comments.
4. The existing reclamation bonds for Permit No. 33H, two self-bonds with third-party guarantors, total \$75,000,000. The most recent Commission action regarding bonding of Permit No. 33H was an approval of an additional bonding instrument in the amount of \$10,000,000 (Docket No. C12-0012-SC-33-D). The additional bonding instrument was

required to supplement the existing \$65,000,000 (Docket No. C7-0024-SC-E) bond due to an increase in the reclamation cost estimate for Permit 33H. Southwestern Electric Power Company (SWEPCO) is the bound guarantor for both bonds that were accepted by Commission Orders dated August 14, 2007, and May 8, 2012, respectively. Sabine does not request a reduction in the amount of the reclamation bond instruments in this application.

5. Copies of the Application were filed for public review, in compliance with notice requirements, at the main office of the Railroad Commission of Texas at 1701 North Congress, William B. Travis Building, Austin, Texas, and in the office of the Harrison County Clerk in Marshall, Texas.
6. Notice of application was published once a week for four consecutive weeks in the *Marshall News Messenger* circulated in Harrison County on February 10, 17, 24 and March 3, 2017. The newspaper is a paper of general circulation in the area of the proposed bond release request area, Harrison County. The notice of application contains all information required by the Act and Regulations for notice of an application requesting bond release. The published notice is adequate notification of the request for release. The notice includes 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 number of acres, permit number at the time of application and date approved, the amount of bond approved, 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 contains information on the applicant, location and boundaries of the permit area, the Application's availability for inspection, and the address to which comments should be sent. Sabine submitted proof of publication to the Commission by letter dated March 8, 2017.
7. Sabine sent notice of the Application to owners of interests within and adjacent to the areas requested for release. Sabine also sent notice to local governmental bodies,

planning agencies, sewage and water treatment authorities and water companies in the locality as required by §12.312(a)(2) of the Regulations. The notice was provided via certified letter in multiple mailings dated February 17, 20, 22, 27 and March 7, 2017. Sabine mailed notice to the County Judge and Commissioners' Court of Harrison County, the Natural Resources Conservation Service's local office in Paris, Texas, the Texas Commission on Environmental Quality, the Texas Department of Transportation, the U.S. Army Corps of Engineers' District Office in Fort Worth, the Texas General Land Office, the Sabine River Authority of Texas, the Texas Parks and Wildlife Department, the US Fish and Wildlife Ecological Service, the Environmental Protection Agency's District Office in Dallas, the Texas Soil and Water Conservation Board's district office in Marshall, West Harrison Water Supply, Panola Harrison Electric Cooperative, Southwestern Electric Power Company (SWEPCO), and to several lessees. The areas requested for release are not located within the territorial boundaries of any municipality that would be notified pursuant to §12.313(c) of the Regulations. Copies of the notification letters were filed with the Commission on March 9, 2017.

8. Staff provided notification of the Application by certified letter dated February 9, 2017, to the Harrison County Judge. Mailing of notification was provided at least 31 days prior to the date of consideration of the docket by the Commission in accordance with §134.133 of the Act. A copy of the letter was provided in Attachment II of Staff's TA.
9. No adverse comments or written objections were filed regarding the request for release pursuant to the notification. No requests for hearing or informal conference were filed pursuant to §12.313(d).
10. Pursuant to §12.312(b) of the Regulations, Staff notified owners of interests in lands and lessees of the application for release and the Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office (OSM) by letters dated October 18, 2016, of the date and time of Staff's field inspection scheduled for November 8, 2016. The notification stated that a release had been requested and, pursuant to §12.312(b)(1), advised them of the

opportunity to participate in the on-site inspection. Staff provided copies of the letters in Appendix II within Attachment III (Inspection Report) of the TA.

11. The inspection occurred on November 8, 2016, as scheduled. Two Commission inspectors from the Tyler field office, two representatives from Sabine and two landowners of separate tracts attended the field inspection. The Inspection Report indicates both landowners were pleased with the condition of their respective property tracts and expressed no negative comments.
12. The 44,401-acre permit area is located approximately three miles southeast of Hallsville, Texas. The permit area is bordered to the north by U.S. Interstate 20. A general location map of the permit area, with the 401.3 total acres proposed for release distinguished, is found in Appendix I of Staff's Inspection Report.
13. The 401.3 total acres requested for release are comprised of two contiguous parcels in the C Area of the mine. A portion of the proposed release areas' northern boundary is adjacent to U.S. Interstate 20. A portion of the western boundary abuts FM 968.
14. The postmining land uses for the 401.3 total acres consists of 272.7 acres of forestry and 128.6 acres of grazingland. All the acreage requested for release lies within two land management units (LUM) that were placed into the five-year extended responsibility period (ERP) on June 12, 1997. All acreage approved as forestry is included in LMU 97Cf1. All acreage approved as grazingland is included in LMU 97Cn3. The approved postmine land uses for the areas requested for release include the following acreages by phase of release requested as set out on pages 3-1 and 4-1 of the Application:

Release	Forestry (LMU 97Cf1)	Grazingland (LMU 97Cn3)	Total Acres
Phase II, III	108.4	2.6	111.0
Phase III	164.3	126.0	290.3
Total	272.7	128.6	401.3

The various phases requested for release, and applicable postmine land uses, are depicted on a map provided in Attachment I of Staff's TA. Photographs of the area taken during Staff's field inspection are included in Appendix IV of the Inspection Report (Attachment III to TA). The 111.0 acres requested for Phase II and III release are depicted in Photos 17 – 27. The 290.3 acres requested for Phase III release are depicted in Photos 1 – 16.

15. Mining operations were conducted on the 401.3 total acres proposed for release between 1987 and 1991. Various reclamation activities were conducted from 1987 through 2000 and as necessary for maintaining the area.
16. The Commission previously approved Phase I release of reclamation liability for the 111.0 acres requested for Phase II and III release by Orders dated March 21, 1995 (Docket No. C4-0043-NA-33-J), and April 14, 2009 (Docket No. Docket No. C8-0007-SC-33-F), for 102.5 acres and 8.5 acres, respectively. Phase I release for the 290.3 acres requested for Phase III release was approved by Order dated September 10, 1996 (Docket No. C6-0037-SC-33-F), and Phase II release was approved by Order dated July 27, 1999 (Docket No. C9-0008-SC-33-F).
17. Based upon the Application and Staff's review, the following Phase II reclamation obligations have been met for the 111.0 acres proposed for Phase II and III release: the establishment of revegetation, and the requirement that discharges from the area not contribute suspended solids to streamflow or runoff outside the permit area in excess of the requirements of the Act and Regulations [§12.313(a)(2)].
 - (a). No silt dams are present within the area proposed for Phase II release.
 - (b). No rills or gullies were present within the area requested for Phase II release that would require repair. The areas have been stabilized to reduce the potential for contributing suspended solids to streamflow.

- (c). No prime farmland, for which additional requirements would be applicable, are located within the areas requested for release.

- (d). Revegetation has been established on the 111.0-acre area requested for Phase II release in accordance with §12.313(a)(2) of the Regulations. Permanent vegetation was planted from 1989 through 2000. The postmining land uses in the area proposed for Phase II release consists of 108.4 acres of forestry (LMU 97Cf1) and 2.6 acres of grazingland (LMU 97Cn3). Vegetation has been established as required by §12.395(b)(3) for forestry and §12.395(b)(1) for grazingland.
 - (i). Sabine submitted soil fertility data for the 2.6 acres of grazingland (LMU 97Cn3) in accordance with the approved minesoil testing plan at the time of sampling. By letters dated September 3, 2009, and August 5, 2010, Sabine reported soil fertility data for the 2006 through 2009 growing seasons. Staff determined the data did not indicate Sabine fertilized the 2.6 acres in a manner constituting augmentation. Copies of Staffs approval letters dated September 30, 2009, and December 13, 2010, were provided in Section 5 of the Application.

 - (ii). Permanent revegetation has been established on the regraded areas in accordance with the approved reclamation plan for forestry and grazingland. The areas requested for Phase II release are planted with approved species; photographs contained in the Inspection Report show that vegetation is well established. The dominant tree species in the forestry area is loblolly pine. The vegetation observed within the grazingland area include switchgrass, indiagrass, big bluestem, and sideoats grama. Sabine submitted ground cover and stem-count data for forestry and ground cover and productivity data for grazingland from surveys conducted in 2008 by letter dated April 8, 2009. By letter dated

March 10, 2010, Staff's determined that the vegetation parameters within these areas equaled or exceeded the applicable success standards in accordance with §§12.390 – .395 of the Regulations.

- (e). As set out in Finding of Fact No. 18(e), the 111.0-acre area, as part of the 401.3-acre area requested for release, is not contributing excess solids to streamflow or runoff outside the permit area in excess of effluent limitations set out in the water quality permit or in excess of stream segment standards [Finding of Fact No. 18(e)(i), *infra*].
18. Sabine has successfully completed all surface coal mining and reclamation activities for the 401.3 total acres requested for Phase III release. Requirements for the completion of the ERP, soil resampling and vegetative standards have been met. Staff has approved all structures within the areas as permanent. Surface water and groundwater within and adjacent to areas have been protected in accordance with §§12.313(a)(3), 12.348 and 12.349 of the Regulations.
- (a). The two structures located within the 401.3-acre area requested for release have been approved as permanent. One diversion, the C8 Reconstructed Stream Channel, was approved by letter dated October 18, 1995. By letter dated October 3, 2016, Sabine submitted Revision No. 50, requesting approval of the Small Depression C-DEP-1 as a permanent feature. This structure was approved as a permanent postmine feature by letter dated December 9, 2016. Copies of the respective approval letters are contained in Section 6 of the Application. Both structures within the area are structurally intact and the surrounding areas are well vegetated. Photographs taken during Staff's field inspection on November 8, 2016, support Phase III release of the acreage requested and are provided as Photos Nos. 1 (Small Depression C-DEP-1) and 2 (C8 Reconstructed Stream Channel) in Appendix V of the Inspection Report (Attachment III to TA).

- (b). The 401.3 acres that have been previously disturbed have met Phase III requirements for successful completion of the extended responsibility period (ERP) of five years for areas that receive 26 or more inches of rainfall annually [§12.395(c)]. All acreage was approved for placement into the June 12, 1997 extended responsibility area (ERA) by letter from the SMRD Director dated September 9, 1997. The 111.0 acres proposed for Phase II and III release have been previously approved for Phase I release. The 290.3 acres proposed for Phase III release have been previously approved for Phase I and II release [Find of Fact No. 16, *supra*].

- (c). In accordance with resample requirements in the approved soil-testing plan, Sabine submitted data and analysis of a random ten percent of all soil grids within the 1997 ERA during the fourth or subsequent year of the five-year ERP. Sabine submitted the resample soil data for the 272.7 acres of forestry (LMU 97Cf1) by letter dated November 3, 2010, and provided supplemental information by email on March 28, 2011. By letter dated April 20, 2011, Staff found there to be no statistically significant differences between the resample data and original data, in accordance with the approved soil-testing plan. Resample soil data for the 128.6 acres of grazingland (LMU 97Cn3) was submitted by letter dated October 17, 2014. Staff concluded the samples were analyzed according to the methodology used in the initial minesoil-monitoring program by letter dated May 27, 2015. Copies of Staff's approval letters for the forestry and grazingland acreage were provided in Attachment IV of Staff's TA and Section 5 of the Application, respectively.

- (d). Successful revegetation of all acres requested for Phase III has been accomplished in accordance with §12.395 of the Regulations. Forestry revegetation-success standards must be met in the final year of the ERP to qualify for Phase III release. By letter dated September 28, 2016, Sabine submitted a report containing the results of a qualitative survey conducted on September 15,

2016, on the 272.2 acres. The purpose of this report was to demonstrate that revegetation within this area (LMU 97Cf1) continues to be successful. Findings based on quantitative data collected more than two years ago must be reconfirmed, as described in Section III.D. of SMRD Advisory Notice ER-BA-127(b). Such findings, or confirmation thereof, are required at §12.395(c)(2) during the growing season of the last year of the ERP for wooded LMUs to be eligible for Phase III release. By letter dated December 20, 2016, SMRD found that the data, supported by aerial imagery, affirmed the finding based on data collected in 2008 [Finding of Fact No. 17(d)(ii), *supra*] that revegetation within the forestry acreage was successful during the growing season of the last year of the responsibility period, in accordance with §12.395(c)(2). A copy of this approval letter is provided in Attachment IV of Staff's TA. Sabine submitted 2009 ground cover and productivity data for the 128.6 acres of grazingland (LMU 97Cn3) by letter dated November 30, 2010. For grazingland to be eligible for Phase III release, vegetation parameters must equal or exceed the approved standards during the growing seasons of any two years of the ERP, except the first year [§12.395(c)(2)]. By letter dated May 25, 2011, Staff determined that the ground cover and productivity data for all grazingland acreage requested for Phase III release met revegetation performance standards.

- (e). Sabine has conducted surface mining activities to ensure surface water quantity and quality have been protected in accordance with §12.313(a)(3) and §12.349. Staff examined Sabine's analysis of surface water information and discharge data from final discharge Pond C-8 as well as water quality from stream monitoring stations that receive runoff from the areas requested for release.
 - (i). Surface drainage from all areas requested for release flow into Permanent Pond C-8, except for a small portion of the area (approximately 22-acres) which at one time drained to temporary Ponds C-3, C-4 and C-5. Permanent Pond C-8 was approved as a permanent impoundment on

January 18, 2002, and is located southwest of the proposed release area. The approximately 22-acre parcel, along with temporary Ponds C-3, C-4 and C-5, were released from sedimentation control on October 10, 1996. The temporary ponds were subsequently reclaimed in 1997. TCEQ issued Texas Pollutant Discharge Elimination System (TPDES) Permit No. 02538 to Sabine for wastewater discharges from the area. Permanent Pond C-8 was previously monitored under the Texas Natural Resource Conservation Commission (TNRCC) until April 1, 1998, when the TNRCC released the pond from sediment control requirements; however, sampling of Pond C-8 resumed in 2015 as a result of current TPDES permit requirements. Runoff from all disturbed areas requested for release is monitored under the TPDES Permit, applicable stream segment criteria [Stream Segment No. 0505 (Sabine River Above Toledo Bend Reservoir)] and provisions outlined in the approved long-term surface water monitoring program for Permit No. 33H.

In support of the requested releases, Sabine submitted a hydrologic report termed *Phase II-III Groundwater and Surface Water Assessment* by letter dated October 4, 2016. Staff's technical review of the report (Attachment IV to TA) indicates discharge data from Pond C-8 complies with effluent limitations for pH, total settleable solids¹ and flow under TPDES Permit No. 02538. In its evaluation, Staff compared quarterly samples collected from 1996 to 1998, a single sample submitted in Sabine's August 2001 application requesting Pond C-8 be approved as a permanent structure, quarterly samples collected from June 2011 through March 2012, and quarterly data provided since 2015. Staff also compared the 2001 sample results for pH and total dissolved solids (TDS) to established criteria for Stream Segment No. 0505. Although no standard exists for TDS in the

¹ Staff notes that while Sabine did not provided data for settleable *solids* as per the TPDES permit, it did provide total settleable *matter* data that is similar for use in evaluating water quality (*emphasis added*).

TPDES permit, the average TDS concentration (160.0 mg/L) is considered suitable for the approved land uses and well below the 400 mg/L maximum for Stream Segment No. 0505. The average pH for permanent Pond C-8 [7.0 standard units (s.u.)], is within the criterion for both Stream Segment No. 0505 (6.0 – 8.5 s.u.) and TPDES Permit No. 02538 (6.3 – 9.1 s.u.). The data demonstrates the areas requested for release are not contributing suspended solids outside the permit area in excess of the requirements of the Act and Regulations, and the water quality is suitable for the approved land uses (a combination of forestry and grazing).

- (ii). Staff reviewed long-term quarterly stream monitoring data collected from two long-term surface water monitoring (LTSM) stations, two baseline monitoring stations and rain gauge locations provided by Sabine in accordance with the approved permit. Station H-1 is a baseline monitoring station, located upstream of permanent Pond C-8, and Station H-2 is the baseline monitoring station located downstream. LTSM Stations HC-1 and HC-2 are located upstream and downstream, respectively. All stations are located on Hatley Creek. The 401.3 acres proposed for release are located within the Hatley Creek watershed. The approved LTSM plan requires that LTSM stations be sampled for pH, total dissolved solids (TDS), total suspended solids (TSS), total iron (Fe), total manganese (Mn) and flow. A comparison of the water quality data collected from disturbed (HC-1) and undisturbed (HC-2) stations indicates the averages observed for all criteria during the monitoring period are substantially similar. A comparison of water quality data collected during the LTSM monitoring period (LTSM Stations HC-1 and HC-2) to data representative of the base line period (baseline stations H-1 and H-2) suggests that mining activities in the proposed release area have not resulted in discernible impacts to water quality. Further, the average TDS concentrations at undisturbed LTSM Station HC-1 (188 mg/L) and disturbed LTSM Station HC-2 (192 mg/L) are

significantly below the applicable TCEQ stream segment criterion (400 mg/L). The average pH concentrations at undisturbed LTSM Station HC-1 (7.1 s.u.) and disturbed LTSM Station HC-2 (7.0 s.u.) fall within the applicable stream segment range (6.0 – 8.5 s.u.).

- (iii). No negative impacts to water quality or quantity are anticipated from flows leaving the proposed release area. According to Staff's Cumulative Hydrologic Impact Assessment (CHIA) for the mine, TDS concentrations were anticipated to increase at Mass-Balance Location No. 6 (predicting a TDS concentration up to 165 mg/L). The highest average TDS concentrations observed during the monitoring period at either LTSM stations is 192 mg/L, occurring at LTSM Station HC-2 (representing a 15% increase). While the increase is greater than that predicted in the CHIA, the average concentration is still lower than the applicable stream segment criterion of 400.0 mg/L established by TCEQ. Further, Staff's analysis of the monitoring data indicates water quality has been preserved as predicted in the approved PHC determination for Permit No. 33H.

The approved PHC for Permit No. 33H and Staff's determination in the applicable CHIA predicted no significant impacts to water quantity available downstream of the release areas. The water quantity data from the requested areas indicates an increase in flow by 30% and 15% at LTSM Stations HC-1 and HC-2, respectively, when compared to the corresponding baseline monitoring stations. However, the flow data recorded for these monitoring stations represent a longer period of record, and when the median flows are compared, all the monitoring stations exhibit similar results. Additionally, both the approved PHC and Staff's CHIA determined any impact downstream due to evaporative losses are negligible when compared to the entire Sabine River Basin cumulative impact drainage area (CIDA).

- (f). The groundwater hydrologic balance has been protected as required by §12.313(a)(3) and §12.348, and the re-established postmine groundwater system is adequate for the proposed postmine uses of the 401.3 acres requested for Phase III release.
- (i). In addressing the requirements of §12.348, Sabine's *Phase II-III Groundwater and Surface Water Assessment* addressed the overburden, spoil and underburden aquifers within and adjacent to the South Hallsville No. 1 Mine.
- (ii). The premine overburden water-bearing strata (shallow systems within 100-150 feet from the surface) in the reclaimed area have been destroyed; however, these strata constituted only minor aquifers. The underburden aquifers in the South Hallsville No. 1 Mine are separated from the overlying mined spoil by claystone containing lenses of clayey sand and having a thickness of one to ten feet. This claystone unit separates the overburden sands from the deeper Wilcox sand units. SMC indicates that no significant overburden aquifers exist in the South Hallsville area. Well yields are insignificant with some wells within the Reklaw or Wilcox Group have yields of up to ten gallons per minute.
- (iii). Two spoil long-term ground-water monitoring (LTGM) wells (PZ-103U and PZ-106U) are located within the general vicinity of the proposed release area. LTGM well PZ-103U is located about 4,000 ft south-southwest and LTGM well PZ-106U is located about 1,000 ft south of the proposed release area boundary. Data for LTGM well PZ-103U shows that the water-table elevation decreased about 4 ft over the period of record (4th Quarter 1990 - 3rd Quarter 2016). Data for LTGM well PZ-106U shows the water-table elevation increased about 2 ft over the period of record (4th Quarter 1992 -

3rd Quarter 2016). Data provided shows rapid resaturation in the postmine spoil material indicative of and similar to premine conditions for the area.

- (iv). Two overburden LTGM wells (PZ-6RL and PT-1) are located within the general vicinity of the proposed release area. LTGM well PZ-6RL is located about 4,500 ft south-southwest and LTGM well PT-1 is located about 2,000 ft west of the proposed release area. Water levels in well PZ-6RL have decreased 6.3 ft over the period of record (2nd Quarter 1986 - 2nd Quarter 2016). Water levels in well PT-1, although stable, have been slightly decreasing over the period of record (3rd Quarter 1986 - 3rd Quarter 2016). Staff concluded the observed decreases are not substantial, and indicate water levels in the overburden have not been significantly impacted by mining activities.
- (v). Two underburden LTGM wells (PZ-103L and PZ-106L) are located within the vicinity of the area proposed for release. LTGM well PZ-103L is located about 4,000 ft south-southwest and LTGM well is located about 1,000 ft south of the release boundary. Water levels in LTGM Well PZ-103L increased 2.6 ft over the period of record (3rd Quarter 1990 – 3rd Quarter 2016). Water levels in LTGM well PZ-106L increased approximately 16 ft over the period of record (3rd Quarter 1992 - 3rd Quarter 2016).
- (vi). The reclaimed spoil-area water quality appears to have followed trends expected from the approved PHC determination for the South Hallsville No. 1 Mine. TDS concentrations appear to have reached maximums and are now decreasing, or have exhibited stabilization for several years. No problematic issues are apparent with chloride, sulfate, pH, iron and manganese. Staff noted water quality in the spoil mass usually varies considerable throughout the mining and reclamation processes. Nevertheless, data from spoil LTGM well PZ-103U show a median TDS

concentration of 343 mg/L, ranging from 589 mg/L to 174 mg/L over the period of record, and is decreasing. Data from spoil LTGM well PZ-106U show a median TDS concentration of 532 mg/L, ranging from 1,114 mg/L to 264 mg/L. TDS concentrations in the overburden and underburden confined aquifers have shown very little to no affect from mining, remaining stable in the 412-596 mg/L range.

19. No wells are located within the proposed release areas [§12.333].
20. The areas requested for release of reclamation obligations are capable of sustaining the postmine land uses. Monthly inspections and Staff's inspection on November 8, 2016, demonstrate that the land has been reclaimed to and managed in accordance with the approved postmine land uses.
21. The reclamation cost estimate for the currently accepted bond is based on the "worst-case" pit method of calculation that assumes that reclamation is contemporaneous. SMRD approved the most recent bond-map revision (Revision No. 41) by letter dated August 3, 2015. The approved reclamation cost estimate is \$51,249,772. All acres proposed for release are eligible for release of bond in the amount of \$713 per acre according to calculations by SMRD. If the application is approved by the Commission, as proposed, Sabine would be eligible to reduce its performance bond obligations by \$314,739.59 (\$713 per acre on 401.3 acres, plus a 10% administrative fee of \$28,612.69), 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 II & III	111.0	Phase I Bond Release Area*	\$713.00	\$713.00	\$79,143.00
Phase III	290.3	Phase II Bond Release Area*	\$713.00	\$713.00	\$206,983.90
Subtotal	401.3				\$286,126.90
Admin. Costs (10%)					\$28,612.69
Total	401.3				\$314,739.59
* The acreage is currently bonded according to the estimated costs of soil preparation, revegetation and maintenance.					

22. The eligible bond reduction amount, based upon the Findings of Fact contained in this Order and Staff calculations, with which Sabine agrees, is \$314,739.59. No reduction of the \$10,000,000 and \$65,000,000 self-bonds with third-party guarantors, approved by Orders dated May 8, 2012, and August 14, 2007, respectively, is requested in this application. No replacement bond instrument has been filed.
23. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.
24. Sabine and Staff, the only parties to the proceeding, filed waivers of the preparation and circulation of a proposal for decision. The proposed order was circulated to the parties with opportunity for comment.

25. Open meeting notice has been posted for Commission consideration of this application in accordance with TEX. GOV'T CODE ANN. CH. 551 (Vernon Supp. 2016).

CONCLUSIONS OF LAW

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

1. Proper notice of application and notice of consideration by the Commission has been provided for this request for release of reclamation obligations.
2. No public hearing was requested, and none is warranted.
3. Sabine has complied with all applicable provisions of the Act and the Regulations regarding notice for Commission jurisdiction to attach to allow consideration of the matter.
4. Sabine has complied with all applicable provisions of the Act and the Regulations for the acreage requested for release as set out in the Findings of Fact.
5. The Commission may approve a release of Phase II and III reclamation obligations for the 111.0 acres, and a release of Phase III reclamation obligations for the 290.3 acres as set out in the above Findings of Fact and Conclusions of Law.
6. Pursuant to the Commission's authority for inspection and evaluation of release applications, the Commission may order that Sabine continue marking the area approved for release so that Staff mapping and tracking will be efficient.
7. An eligible bond reduction amount of \$314,739.59 for use in reclamation cost estimates 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 a release of Phase II and III reclamation obligations for 111.0 acres and a release of Phase III reclamation obligations for 290.3 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 in accordance with its terms until a replacement bond is approved by the Commission;

IT IS FURTHER ORDERED the Commission approves an eligible bond reduction amount of \$314,739.59;

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 25 days after a party is notified of the Commission's Order. 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. As authorized by 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 25th day of April, 2017.


RAILROAD COMMISSION OF TEXAS



CHAIRMAN CHRISTI CRADDICK

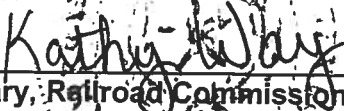


COMMISSIONER RYAN SITTON



COMMISSIONER WAYNE CHRISTIAN

ATTEST:



Secretary, Railroad Commission of Texas

