

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. C16-0003-SC-04-F  
APPLICATION BY LUMINANT MINING COMPANY LLC  
FOR RELEASE OF RECLAMATION OBLIGATIONS  
PERMIT NO. 4L, MARTIN LAKE MINE, PANOLA AND RUSK COUNTIES, TEXAS**

**ORDER APPROVING RELEASE  
OF PHASE I, II, and III RECLAMATION OBLIGATIONS FOR 13.2 ACRES,  
PHASE II and III RELEASE FOR 0.9 ACRES, AND  
PHASE III RELEASE FOR 60.2 ACRES**

Statement of the Case

Luminant Mining Company LLC (Luminant), 6555 Sierra Drive, Irving, Texas 75039 applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division (SMRD or Staff), for a release of reclamation obligations for a total of 74.3 acres within Permit No. 4L, Martin Lake Mine, located in Panola and Rusk Counties, Texas. Luminant requested Phases I, II and III release for 13.2 acres, Phases II and III release for 0.9 acres, and Phase III release for 60.2 acres. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. CH. 134 (Vernon Supp. 2018) (Act), and the "Coal Mining Regulations," Tex. Railroad Comm'n, 16 TEX. ADMIN. CODE CH. 12 (Thomson West 2018) (Regulations).

Permit No. 4L currently authorizes surface coal mining and reclamation operations at Luminant's Martin Lake Mine within its approximately 30,529-acre permit area. No comments or requests for hearing were filed following public notice. The only parties to the proceeding are Luminant 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 the aggregate 74.3 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. Luminant has not requested an adjustment to the approved reclamation bond 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 \$177,695.10 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 September 21, 2015, Luminant Mining Company LLC (Luminant) filed its application (Application) with the Railroad Commission of Texas' (Commission) Surface Mining and Reclamation Division (SMRD and/or Staff) for a release of Phase I, II and III reclamation obligations for 13.2 acres, Phase II and III release for 0.9 acres, and Phase III release for 60.2 acres. The proposed release area is located within the permit area of Permit No. 4L, Martin Lake Mine. The mine encompasses approximately 30,529 acres in Rusk and Panola Counties. Permit No. 4L was most recently renewed by the Commission on February 28, 2017 (Docket No. C15-0016-SC-04-C).
2. No filing fee is required. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2018) (Act), and the "Coal Mining Regulations," Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2018) (Regulations). The application was properly certified in accordance with §12.312(a)(3) of the Regulations.
3. Luminant currently bonds all of its operations in Texas with a blanket collateral bond and trust agreement in the amount of \$975,000,000 accepted by Commission Order dated September 27, 2016 (Docket No. C16-0021-SC-00-E). Luminant does not request any change to the bond instrument. An eligible bond reduction amount may be considered.
4. The draft public notice included with the application was reviewed September 30, 2015, was revised by Luminant October 1, 2015, and was approved for publication on October 27, 2015. 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, at the Commission's Regional Office

in Tyler, Texas, and in the offices of the Panola and Rusk County Clerks in Carthage and Henderson, Texas, respectively.

5. Publication of notice of application occurred once each week for four consecutive weeks in both *The Panola Watchman* and the *Henderson Daily News*, newspapers of general circulation in Panola County, Texas and in Rusk County, Texas, respectively. The notice was published in *The Panola Watchman* on November 8, 15, 22, and 29, 2015, and in the *Henderson Daily News* on November 9, 16, 23, and 30, 2015.
6. Proof of publication and notice to landowners and others was provided by letter dated December 29, 2015. The newspapers are published in the locality of the surface mining and reclamation operations. The notice of application contains all information required by §134.129 of the Act and §12.312(a) of the Regulations for notice of application for release of Phase I, Phase II, and Phase III reclamation obligations. The notice is adequate notification of the request for release. The notice included the name of the permittee, the location of the land affected, the approximate number of acres, permit number at the time of application and date approved, the amount of approved bond, 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, the address to which comments should be sent, and a map with sufficient notice of the boundaries of the area requested for release.
7. By letter dated December 29, 2015, Luminant provided copies of letters to property owners, owners of leaseholds or other property interests, and adjoining property owners notifying them of the application for release in accordance with §12.312(a)(2) of the Regulations. Luminant also provided copies of the letters sent to the following: the Panola County Judges/Commissioners Court, Texas Department of Transportation, Natural Resources Conservation Service, Rusk County Electric Coop, Inc., Texas Commission on Environmental Quality, Rock Hill Water Supply Corp., Tatum, Texas, Eastex Telephone

Cooperative, Inc., Southwestern Bell Telephone Company, U.S. Army Corps of Engineers, Fair Play Water Supply Corporation, Reliant Energy Service, and Verizon, as required by §12.312(a)(2) of the Regulations and §134.129 of the Act.

8. 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.
9. The area requested for release is located in the Martin Lake Mine in the CIV and CV mine areas and is comprised of four parcels of land within the permit area. The approved postmining land uses are pastureland (43.9 acres), industrial/commercial (10.0 acres) and developed water resources (20.4 acres).
10. One impoundment, three diversions, one road, one drop structure, and one inlet are located within the 74.3 acres proposed for release, and all seven structures have been approved. Luminant included copies of SMRD approval letters for these structures. There are no facilities or small depressions located within the area proposed for release.
11. The parcels proposed for Phase II and/or Phase III release were released from Phase I and/or Phase II reclamation liability, as applicable, by five separate Commission Orders from 1998 through 2012, as shown in Luminant's Table I-2.
12. The application was declared administratively complete and filed with the Hearings Division on January 6, 2016. Staff's Technical Analysis and Inspection Report was filed with the Hearings Division on April 26, 2016. The Technical Analysis noted concerns regarding surface-water quantity and quality, ground water quantity, and temporary structures in the area requested for release, as well as revegetation success for the 29.3 acres in the area requested for release formerly covered by fish and wildlife habitat but since changed to pastureland (LMU CIV-1988). Luminant responded to the concerns noted in Staff's Technical Analysis by letters dated June 6, 2017, October 2 and 13, 2017,

and April 6, 2018, providing surface water quantity information, a surface water quality trend analysis and comparison, Sedimentation Pond CIII-11 and CIII-14 trend analyses and comparisons, updated water quality and quantity data, a depiction of the LTSM stations on its watershed map, a revised CIII-14 Pond rating table to include data for every tenth of a foot increment, excerpts of a settlement agreement and an option agreement with a landowner providing for continued right-of-entry for purpose of monitoring, and revised Plate III.B.3-1 showing updated watersheds and LTSM station [§12.349]. Luminant also provided a copy of an April 13, 2016 report in which it demonstrated revegetation success for LMU CIV-1988H and demonstrated that ample forage was produced in pastureland LMU CIV-1988 during 1996 and 1997 to compensate for the inclusion of these additional 29.3 acres of pastureland [§12.395]. Staff filed its Technical Analysis Addendum on May 14, 2018, indicating that the information provided by Luminant adequately addressed Staff's concern regarding surface water quantity and quality, ground water quantity, and temporary structures. Staff's Technical Analysis Addendum also indicated that Luminant's proposal to expand pastureland to LMU CIV-1988H by 29.3 acres had been approved by letter dated June 8, 2016, and that an inspection of the area on April 16 and 19, 2018 revealed that vegetative cover was estimated at 80% to 85% and that the impact area covers less than one acre (0.76 acre).

13. The area proposed for release is detailed in Staff's Technical Analysis and the Addendum to the Technical Analysis, Attachment I (depiction of area requested for release) and Attachment III (Staff Inspection Report), Appendix I (Location Map) to Attachment III, and Appendix IV (General Photographs and Photograph Location Map), as well as Appendix V, Permanent Structures Tables, Structure Photographs and Photograph Location Map. The application, photographic evidence, Staff Technical Analysis and Inspection Report, and the Addendum to the Technical Analysis provide support for release of reclamation obligations.
14. SMRD's Inspection and Enforcement Section mailed letters dated September 30, 2015, to Luminant, landowners, holders of other interests within the area requested for release,

and the Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office (OSM), notifying them of the date scheduled for inspection, October 15, 2015, and the opportunity to participate in the inspection in accordance with §12.312(a)(2) (Appendix II to Staff's Technical Analysis). Staff sent a letter of notification of the application by certified mail to the Rusk County Judge, The Mayor of the City of Beckville, the Mayor of the City of Tatum, and the Panola County Judge by letters dated November 16, 2015 (Attachment II to Staff's inspection report) as required by the Act, §134.133. The inspection occurred on the date scheduled. Two Luminant representatives participated in the inspection with the Commission field inspector. No OSM representative attended the inspection. No others attended the inspection. The area requested for release was appropriately marked in the field.

15. The area requested for release was mined from 1984-1987, and final grading of the area, including construction of diversion ditches, swales, erosion and sediment control features, was accomplished between 1985-1988. Routine monthly inspections of the reclamation work covering the proposed release area occurred from 1984 to the date of the inspection and have continued. The area proposed for Phase II and Phase III release (0.90 acres) was placed into the ERP on December 30, 2008. The area proposed for Phase III release (60.2 acres) was placed into the ERP on November 8, 1988. The area proposed for Phase I, Phase II and Phase III release (13.2 acres) is not subject to an ERP.
16. Based upon the application and Staff review in its April 26, 2016 Technical Analysis and its May 24, 2018 Addendum to its Technical Analysis, the acreages requested for release from Phase I reclamation obligations have met Phase I requirements for backfilling, regrading, and drainage control requirements as required by §12.313(a)(1) of the Regulations and may be approved for Phase I release.
17. The area requested for Phase I release have been backfilled and graded to approximate original contour [§12.385(a)]. All highwalls and spoil piles were eliminated in accordance with §12.384(b)(1) of the Regulations, and suitable material was placed over the regraded spoil. No cut-and-fill terraces were constructed. Backfilled material has been placed to minimize erosion, to minimize water pollution both on and off the site, and to support the

approved postmining land uses [§12.384(b)(2)]. Drainage patterns similar to premine drainage have been established. All area request for release meet Phase I release have been stabilized to control drainage and attendant potential erosion [(§12.389)]. Surface water from the reclaimed area flows through sedimentation ponds.

- (a). The area requested for release contains 40 soil-testing grids. Luminant provided soil-testing data for all but one of these grids from 1991 through 2007. Luminant indicated that Grid 453 was unsampled because most of this grid was occupied by the north perimeter road and the dam of CIII-11 Pond and was therefore not available for sampling. SMRD approved Luminant's proposal to use previously submitted data from Grid 533-AFF to represent the adjacent, unsampled Grid 453, by letter dated October 28, 2015. In the same October 28, 2015 letter, SMRD determined that the soil-testing data met the applicable physicochemical postmine soil performance standards for all grids within the proposed release area, with the exception of footprints of temporary structures, certain reclaimed-structure footprints, and certain redisturbed previously sampled grids that were subsequently addressed in Staff's Technical Analysis.
- (b). There are three permanent diversions located in the area proposed for release of reclamation liability. The three diversions have been approved by SMRD [§12.341].
- (c). There are three diversions, one drop structure, and one inlet within the area proposed for release of reclamation liability, all of which have been approved by SMRD [§§12.343, 12.345 and 12.347(b)].
- (d). The area proposed for release contains one road. The road was found to be structurally intact and stable. The road has been approved by SMRD [§12.400(f)].
- (e). Surface water runoff from the proposed release area will flow through Sedimentation Pond CIII-14, which was approved by SMRD on December 20,

1995, and Sedimentation Pond CIII-11 and associated structure CIII-11 Sediment Pond Inlet Modification No. 1 which were approved by SMRD letters dated August 11, 2005 and October 6, 2009, respectively [§12.344]. With regard to the release of Pond CIII-11 from sediment-control requirements, Staff indicates in its Technical Analysis Addendum that all discharges from Sedimentation Pond CIII-11 that do not flow through an approved final discharge pond prior to leaving the permit area must be sampled and analyzed in accordance with § 12.350(b)(3) until the watershed of the CIII-11 Sedimentation Pond is released from Phase III reclamation obligations.

- (f). There are no facilities or small depressions located within the area proposed for release of reclamation liability.
18. No coal-processing waste or associated structures referenced in §§ 12.371-12.374 and §§ 12.376-12.378 exist within the areas proposed for release. With regard to § 12.375, however, there is a small portion of one non-coal waste disposal site, consisting of 34.1 acres, that lies within areas proposed for release. This disposal site has been operated in accordance with § 12.375(a)-(d) and Texas Commission on Environmental Quality (TCEQ) regulations, was deed-recorded on April 13, 1987 as a waste-management unit for Class III waste with the county courthouse and registered with the TCEQ, and was covered with a minimum of four feet of suitable topsoil-substitute material and revegetated in accordance with the approved permit. Only approved waste materials have been disposed of in this site, and the majority of this waste-disposal site has already been released from reclamation liability.
19. There is no prime farmland located in the area proposed for Phase I release for which specific soil reconstruction standards would apply. [§12.624]
20. The various acreages requested for Phase II release have met the Phase II revegetation requirements of § 12.313(a)(2) of the Regulations and the requirement that the areas not contribute suspended solids to streamflow outside the permit area in excess of the



requirements set by the Act, § 134.092(a)(10) and Subchapter K of 16 TEX. ADMIN. CODE Ch. 12.

- (a). Luminant has conducted surface mining activities in accordance with § 12.349 to protect surface water quality and quantity. Disturbed drainage in the areas requested for release has been routed to approved sediment ponds prior to release from the permit. Drainage from the areas proposed for Phase II release flows through Sediment Ponds CIII-11 and CIII-14. The areas requested for Phase II release of reclamation liability have been stabilized to reduce the potential for contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by § 134.092(a)(10) of the Act and Subchapter K of the Regulations. Data from CIII-11 and CIII-14 shows that discharges have not exceeded the Texas Pollutant Discharge Elimination System (TPDES) water quality effluent standards (TPDES Permit No. WQ0002644000), or standards outlined in 40 CFR Chapter 434.
- (b). Revegetation has been established on the areas requested for release in accordance with §12.395 for the three land uses within the 74.3-acre area. The initial postmine soil monitoring data for the areas does not indicate the presence of acid-forming or toxic-forming materials in the top four feet of reclaimed soils.
  - (i). Permanent vegetation was planted from 1985 through 1988. The areas proposed for release consist of postmine land uses of pastureland, developed water resources, and industrial/commercial use. Based upon the inspection conducted, Staff has determined that the land has been reclaimed to the approved postmine land uses as required by §§ 12.147 and 12.399 of the Regulations.
  - (ii). Pastureland, developed water resources, and industrial/commercial areas proposed for release from Phase II and Phase III reclamation liability are planted in a variety of species as required by §12.390 of the Regulations.

Pastureland areas (14.6 acres, plus an additional 29.3 acres formerly covered by fish and wildlife habitat but since changed to pastureland, for a total of 43.9 acres) were planted with Coastal bermudagrass and are sufficient to control erosion. By letter dated March 28, 2016, the Commission determined that Luminant had met the revegetation-success criteria at §12.395(b)(4) for the areas with a postmining use of industrial/commercial areas (10.0 acres). The areas with a postmining use of developed water resources (20.4 acres) that were not covered with water were planted with Coastal bermudagrass and native grasses and are sufficient to control erosion.

21. Luminant reported baseline data from two monitoring stations located within the permit area and summarized the history of the paired-watershed long-term quarterly sampling on disturbed and undisturbed monitoring stations. Undisturbed monitoring station ML-20 is located on North Caney Branch along the western edge of the C Area. Until September 2000, the undisturbed monitoring station was located on Watson Branch on the north edge of the C Area. Disturbed monitoring station ML-22 is located on Mulberry Creek in the northeastern part of the A Area.
  - (a). Both the disturbed and undisturbed area monitoring stations were monitored for total dissolved solids (TDS), total suspended solids (TSS), total iron (Fe), total manganese (Mn), settleable solids (TSM), and pH.
  - (b). The runoff from the watershed disturbed by mining and subsequently reclaimed exhibits a higher flow-weighted average TDS concentration of 382 mg/L when compared to the undisturbed watershed which has an average TDS concentration of 75 mg/L (until September 2000) and 114 mg/L (after September 2000). The average pH values were similar for the disturbed station (with an average value of 6.9 s.u.) and the undisturbed station (with an average of value of 6.04 until September 2000 and 5.83 after September 2000). All discharge from the areas proposed for release ultimately flows into the Elijah Branch, which is a tributary to

the Sabine River, TCEQ Stream Segment No. 0505. Based on these data, the flow-weighted TDS concentration for the disturbed watershed is within the stream-segment limitation (annual average) of 400 mg/L. The pH data for the disturbed station is also within the pH stream-segment limitation of a range of 6.0-8.5 s.u. A comparison of the average TSS and total Fe for the disturbed and undisturbed LTSM monitoring stations indicates that the concentrations were lower at the disturbed station, while a comparison of the average TDS and Mn indicates that these concentrations were higher at the distributed station. With regard to settleable solids, both stations consistently had less than 0.1 ml/l concentrations since monitoring was initiated.

- (c). Luminant has complied with the requirements of §12.348 for the 0.9-acre cumulative area proposed for Phase II and III release from reclamation obligations as well as the 60.2-acre area proposed for Phase III release from reclamation obligations.
22. Luminant has successfully completed all surface coal mining and reclamation activities for the acres requested for Phase I, Phase II, and Phase III release from reclamation obligations (13.2 acres), Phase II and III release (0.9 acres) and Phase III release (60.2 acres).
- (a). Ground-cover estimates as determined from 1998 through 2015 exceeded the technical standards for ground cover, demonstrating the successful vegetative establishment and stabilization of the postmine soils.
  - (b). Luminant submitted ground cover and tree and shrub stocking (stem-count) data for the 29.3 acres formerly reclaimed as fish and wildlife and placed into a land management unit (LMU) designated as LMU CIV-1988H, which was subsequently approved as postmine pastureland and became part of LMU CIV-1988. This LMU was accepted into the ERP on November 8, 1988. By letter dated May 7, 1998,

SMRD Staff indicated that the revegetation was successful and in accordance with §12.395.

- (c). Luminant submitted ground cover and productivity data for the 14.56 acres reclaimed to pastureland (not including the 29.3 acres formerly covered by fish and wildlife habitat LMU CIV-1988H which was changed to pastureland). This 14.56 acres was placed into two (2) LMUs designated as CIV-1988 and CIV-08P. LMU CIV-1988 was accepted into the ERP on November 8, 1988. LMU CIV-08P was accepted into the ERP on December 30, 2008. By letter dated June 8, 2016, SMRD Staff approved Luminant's proposal to expand pastureland LMU CIV-1988 by 29.3 acres. Staff indicated the ground cover data for LMUs CIV-1988 and CIV-08P met or exceeded the requirements of §12.395 by letters dated May 8, 1998 and December 2, 2014, respectively.
  - (d). By letter dated June 23, 2015, Luminant submitted a ground cover evaluation for the 10.0 acres reclaimed as industrial/commercial land and placed into LMU CIV-I/C. Luminant's submittal was supplemented by letters dated January 13 and March 7, 2016. By letter dated March 28, 2016, SMRD Staff indicated that the revegetation was successful and in accordance with §12.395.
  - (e). No portion of the area proposed for release of reclamation liability has soils classified as prime farmland prior to mining.
23. No wells are located within the proposed release areas [§12.333].
24. Groundwater has been protected in accordance with §12.348. Since 1992, Luminant has submitted quarterly groundwater monitoring data from overburden and underburden aquifers at the Martin Lake Mine as measured in the three monitoring wells completed in areas close to the 74.3-acre release area.

- (a). The spoil monitoring well in the vicinity has been in place since September 1992. Water levels initially trended upward until May 1995 and stabilized until January 1996, then declined until February 1997 after which levels generally stabilized with some fluctuation through November 2005. Subsequently, water levels began a slow downward trend until December 2014, and then subsequently rose through May 2015. Current water levels are 8.3 feet higher than initial measurements. Spoil monitoring well CIV-31-R-91 installed in 1992, appears to have achieved a maximum resaturation level in 2015 and is now static. Luminant has plugged applicable boreholes in accordance with the requirements of the Commission.
- (b). Long-term quarterly monitoring of the overburden aquifer units was obtained through the one overburden LTGM well that exists in the vicinity of the proposed release area, C-3-OB. In LTGM well C-3-OB, water levels have been stable with minor seasonal fluctuations throughout the period of record, with a current water level that is approximately 0.1 feet higher than the initial measurement. The average TDS concentration is 128 mg/L, ranging from 74 mg/L to 220 mg/L. TDS concentrations are stable with minor seasonal fluctuations. The observed changes follow the trends expected from the approved PHC determination.
- (c). One underburden well exists in the vicinity of the proposed release area, TMW-1-UB-95. Water-level measurements for this well show the current water level to be approximately 30 feet lower than the initial measurement, and water levels have been gradually trending downward since March 2001. Luminant indicated in the application that the declines in well TMW-1-UB-95 are likely due to leakage from the confined aquifer into the adjacent spoil mass in this area as the hydrogeologic system moves toward equilibrium. Through a supplement submitted on June 5, 2017, Luminant provided additional information contained in a PBW Technical Memorandum regarding the declines in this well. In its Technical Memorandum, PBW explained that most of the decline had occurred since 2006, and that some of the decline since 2006 was likely attributable to incidental depressurization due to removal and advance dewatering of the overburden during mining in the CVI

North Area, as predicted. PBW further explained that long-term monitoring data collected over the past two decades has demonstrated that the decline in potentiometric head due to mining activities is highly localized and short-lived, and that incidental depressurization at TMW-1-UB-95 has been noted and explained in several annual dewatering reports for the Martin Lake Mine (most recent report for 2013) which were reviewed, and Staff's May 14, 2018 Addendum to its Technical Analysis concludes that this information supplied by PBW for underburden LTGM Well TMW-1-UB-95 regarding the declines in water levels is adequate and that Luminant has shown that it has complied with the Regulations regarding ground-water systems. With respect to ground water systems, Luminant has complied with the requirements of the Regulations for the various acreage proposed for Phase III release from reclamation obligations. Staff notes no groundwater concerns in the areas proposed for Phase III release that would preclude final release.

25. The areas proposed for release of reclamation obligations, if approved, would be eligible for an adjustment to the required amount of the bond. The notice of application for release did not include an amount of eligible bond reduction requested, and Luminant has not requested an adjustment to the approved bond at this time. No replacement bond instrument has been filed.
  
26. Although Luminant has not requested an adjustment to the approved bond at this time, there is an eligible bond reduction amount, based upon the Findings of Fact contained in this Order and the Addendum to Staff's Technical Analysis. The Staff has filed its estimate of eligible bond amount reduction, \$161,541.00, based upon the disturbed acreage rate of \$8,635 per acre for 13.2 acres of the proposed release area, the Phase I mined rate of \$3,078 per acre for 0.9 acres of the proposed release area, and the Phase II mined rate of \$744 per acre for 60.2 acres of the proposed release area, should the Commission approve the release requested. Acres mined comprise 61.1 of the 74.3 acres included in the release requested, while the remaining 13.2 acres included in the release requested are disturbed and not eligible for a reduction. A 10% amount (\$16,154.10) is then added

for administrative costs, for a final total amount of \$177,695.10 that may be considered eligible for reduction in estimated costs of reclamation.

27. The area requested for release has been marked in the field with permanent boundary markers to distinguish the area from active mining and reclamation areas. Clear identification of this area will assist future inspection of this area and adjacent areas by field office staff.
28. Luminant 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.
29. Open meeting notice has been posted for Commission consideration of this Application in accordance with TEX. GOV'T CODE ANN. CH. 551 (Vernon Supp. 2018).

#### **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. Luminant 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. Luminant has met all requirements for Phase I, Phase II, and Phase III release for the aggregate 74.3 acres within the Martin Lake Mine as set out in the application, as supplemented, and Staff review.

5. The Commission may approve a release of Phase I, Phase II, and Phase III reclamation obligations for the aggregate 74.3 acres as set out in the above Findings of Fact and Conclusions of Law.
6. An eligible bond reduction amount of \$177,695.10 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** that the Commission approves Phase I, Phase II, and Phase III release of reclamation obligations for the requested aggregate 74.3 acres as set out in the Findings of Fact and Conclusions of Law;

**IT IS FURTHER ORDERED** that \$177,695.10 is determined as an eligible bond reduction amount;

**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** 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;

**IT IS FURTHER ORDERED** that all discharges from Sedimentation Pond CIII-11 that do not flow through an approved final discharge pond prior to leaving the permit area must be sampled and analyzed in accordance with § 12.350(b)(3) until the watershed of the CIII-11 Sedimentation Pond is released from Phase III reclamation obligations;

**IT IS FURTHER ORDERED** that the areas shall continue to be marked in the field to assist in future field inspections of other areas; and



**IT IS FURTHER ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's Order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code §2001.146(e). If a timely motion for rehearing is filed by any party at 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 is 100 days from the date the Commission Order is signed.

**SIGNED this 19<sup>th</sup> day of June, 2018.**

**RAILROAD COMMISSION OF TEXAS**

  
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**CHAIRMAN CHRISTI CRADDICK**

  
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**COMMISSIONER RYAN SITTON**

  
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**COMMISSIONER WAYNE CHRISTIAN**

**ATTEST:**

  
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**Secretary, Railroad Commission of Texas**

