

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. C15-0014-SC-05-F
APPLICATION BY LUMINANT MINING COMPANY LLC FOR PHASE II AND PHASE III
RELEASE OF RECLAMATION OBLIGATIONS FOR 312.2 ACRES OF ITS SURFACE COAL
MINING OPERATIONS FOR PERMIT NO. 5G, MONTICELLO-THERMO MINE, HOPKINS
COUNTY, TEXAS**

**ORDER APPROVING PHASE II AND PHASE III RELEASE
OF RECLAMATION OBLIGATIONS**

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, for Phase II and Phase III release of reclamation liability for 312.2 acres of Permit 5G, Monticello-Thermo Mine, in Hopkins County, Texas. The permit was last renewed by Order dated March 29, 2016. The 312.2-acre permit area is located approximately three miles southeast of Sulphur Springs, Texas.

The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. Ch. 134 (Vernon Supp. 2017) (Act), and the "Coal Mining Regulations," Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE Ch. 12 (Thomson West 2017) (Regulations).

Copies of the application were filed in required county and Commission offices, and notices were mailed to landowners and adjoining landowners of the area requested for release and required federal and state agencies. One comment was filed by an individual who was not a landowner or adjacent landowner. The comments were addressed by the administrative law judge and Staff. No other comments were made following public notice and mailed notice, and no public hearing was requested. The only parties to the proceeding are Luminant and the

Commission's Surface Mining and Reclamation Division (SMRD or Staff). The parties have filed waivers of the preparation and circulation of a proposal for decision. There remain no outstanding issues between the parties as to the Phase II and/or Phase III releases. Based on the information provided by the applicant, as supplemented, Staff's inspection of the area, and Staff review, a release of both Phase II and Phase III reclamation obligations for all 312.2 requested acres is recommended for the establishment of vegetation, sediment control, groundwater protection, and completion of the extended responsibility period (ERP). Although Luminant is eligible for a bond reduction, Luminant does not request a reduction to the accepted bond instrument at this time, and no new bond has been submitted.

FINDINGS OF FACT

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

1. By letter dated July 1, 2015, Luminant filed its application for Phase II release of reclamation requirements (revegetation and sediment control) and Phase III release of reclamation requirements (completion of the five-year ERP and surface water and groundwater protection) for two parcels of land covering 312.2 acres. The parcels are located in Hopkins County, Texas, within the permit area of Permit No. 5G, Monticello-Thermo Mine. The mine encompasses approximately 4,506 acres.
2. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE ANN. CH. 134 (Vernon Supp. 2017) (Act), and the "Coal Mining Regulations," Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE CH. 12 (Thomson West 2017) (Regulations). No filing fee is required. The application was properly certified in accordance with §12.312(a)(3) of the Regulations. The application was supplemented

by letter dated July 21, 2015, with a revised CD containing depictions of structures within the proposed release area. The application was declared administratively complete on August 27, 2015. Luminant also provided additional information by letter dated April 10, 2017, and a revised Plate III.B.3-1 by letter dated January 15, 2018.

3. Although the acreage is eligible for a bond reduction, Luminant does not request an adjustment in the amount of the approved reclamation bond at this time. An eligible bond reduction amount may be considered. The 312.2 acres proposed for Phase II and Phase III release are bonded at the Phase I mined rate of \$696 per acre. Luminant currently bonds all its operations in Texas with a blanket collateral bond approved by Order dated September 27, 2016 (Docket No. C16-0021-SC-00-E).
4. The areas proposed for release are detailed in Staff's Inspection Report, Appendices IV and V. Appendix IV depicts the area requested for release and the locations of photographs taken during the Staff inspection. Appendix V contains photographs taken during the Staff inspection of permanent structures located within the area requested for release, as well as location maps. The application, photographic evidence, and Staff Inspection Report and Technical Analyses provide support for release of Phase II and Phase III reclamation obligations.
5. The permit area is located approximately three miles southeast of Sulphur Springs, Texas. The 312.2-acre area proposed for Phase II and Phase III release is comprised of two parcels of land disturbed by mining operations from 1998 to 2006. The parcels are located in Hopkins County. The postmine land uses for the aggregate 312.2 acres

requested for release are as follows: pastureland (150.5 acres); fish and wildlife habitat (138.1 acres); and developed water resources (23.6 acres).

6. 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 field office located at 2202 Old Henderson Highway, Tyler, Texas 75702; and in the office of the Hopkins County Clerk, Sulphur Springs, Texas.
7. SMRD's Inspection and Enforcement Section mailed letters dated July 9, 2015 to landowners and the Office of Surface Mining Reclamation and Enforcement (OSM) Tulsa Field Office, notifying them of the date scheduled for inspection, July 22, 2015, and offering the opportunity to participate in the inspection in accordance with §12.312(a)(2) of the Regulations. Staff sent a letter of notification of the application as required by the Act, §134.33 and provided a copy of the approved public notice by certified letter to the Hopkins County Judge dated July 29, 2015 (Attachment II to Staff's Technical Analysis). The inspection occurred on the date scheduled. Two Luminant representatives were present at the inspection. No others attended the inspection other than the Commission inspector. The area was inspected with the use of a GPS device; the areas were marked in the field at the time of the inspection, and the accuracy of the boundary markers was confirmed. Field conditions were moist at the time of the inspection, allowing access to the entire proposed release area.
8. Publication of notice of application occurred once each week for four consecutive weeks

in *The Sulphur Springs News Telegram*, a newspaper of general circulation in Hopkins County, Texas, on July 23 and 30, 2015, and August 6 and 13, 2015. This newspaper is 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 II reclamation requirements for revegetation and sediment control and Phase III reclamation requirements for completion of the five-year ERP and surface water and groundwater protection. The notice is adequate notification of the request for release. The notice included the name of the permittee, the location of land affected, the approximate number of acres, the permit number at the time of the application and date approved, the amount of the approved bond, the type of and appropriate dates when reclamation work was performed, and a description of 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 areas requested for release.

9. By letter dated August 21, 2015, Luminant submitted to the Commission copies of the letters to landowners and/or adjoining landowners, and lessees and holders of other property interests, and to the following: Hopkins County Judge and Commissioners Court, the Texas Commission on Environmental Quality, the United States Army Corps of Engineers, the Natural Resources Conservation Service, Mt. Pleasant, Texas, the Texas Department of Highways & Public Transportation in Paris, Texas, Texas and in Austin, Texas, State Soil and Water Conservation Board, General Telephone Co., the State of Texas c/o State Department of Transportation, Magellan Pipeline Co., Oncor Electric Delivery Company LLC, Southwestern Bell Telephone Company, Verizon, and

the Martin Springs Water Supply Co., the City of Sulphur Springs (indicated as having a leasehold interest in Tract No. 0029B, an adjoining tract) as required by §12.312(a)(2) of the Regulations and §134.129 of the Act. 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.

10. The Tyler field office filed its inspection report dated October 13, 2015, with the Austin office. The field report received by the Commission provides support for the release of Phase II and Phase III reclamation obligations.
11. SMRD determined the application to be administratively complete on August 27, 2015. Staff's initial Technical Analysis and inspection report were filed with the Hearings Division by letter dated July 22, 2016. Luminant filed letters dated July 14, 2015 (revised draft notice), July 21, 2015 (replacement CD for structure information), July 22, 2015 (providing dates of intended publication of notice and copies of letters sent to landowners and other interested persons), and August 21, 2015 (proof of public notice). By letter dated June 16, 2016, the ALJ set a deadline of July 15, 2016. After approval by the ALJ for an extension, Staff's Technical Analysis and inspection report were filed by letter dated July 25, 2016. In response to the TA, Luminant filed a letter dated July 25, 2016 indicating that it intended to supplement the application on or before August 31, 2016. By letter dated March 2, 2017, after no additional filings had been received, the ALJ again requested that Luminant notify the ALJ of its intentions regarding the application. By letter dated April 10, 2016, Luminant filed a supplement. Staff noted an additional deficiency by letter dated January 5, 2018. Luminant filed its response dated

January 15, 2018. Staff filed its Addendum No. 1 indicating that Staff recommended release as requested. Luminant accepted Staff's TA by letter dated January 30, 2018. The TA and inspection report, as supplemented by the Addendum No. 1, indicated that Luminant had met all requirements for Phase II and Phase III release for the entire 312.2 acres identified in the application.

12. One comment letter dated July 30, 2015 was filed by Donald A. Mitchell of Sulphur Springs, Texas. Mr. Mitchell was not listed as a landowner or adjacent landowner of the areas requested for release and did not state his interest in his letter. Mr. Mitchell inquired regarding the representation on drawings in the application of disposal sites, active final discharge ponds, and postmine ponds. Mr. Mitchell stated his impression that Luminant had not tailored the map adequately. Staff addressed Mr. Mitchell's technical questions regarding the map, disposal sites, and ponds. The ALJ provided information to Mr. Mitchell regarding the requirements of the Regulations regarding the notice and that the inclusion of a map is not a requirement, although it assists in providing a more precise location of the permit area and release area. No further comments were made by Mr. Mitchell, and he did not participate in the proceeding otherwise. No requests for hearing or informal conference were filed pursuant to §12.313(d) of the Regulations.
13. The Commission previously approved Phase I release of backfilling, regrading, and drainage control requirements required by §12.313(a)(1) of the Regulations for the 312.2 acres requested for release by Orders dated November 7, 2007 (Docket No. C7-0022-SC-05-F) and March 9, 2011 (Docket No. C11-0002-SC-05-F).

14. The following is a list of all permanent structures as set forth in §12.354 and located within the proposed Phase III release area, including their approval dates as permanent structures by the Commission:

- E-03 Permanent Impoundments – approved permanent May 23, 2005;
- E-06 Permanent Impoundments – approved permanent December 5, 2006;
- F-11 Diversion – approved permanent December 5, 2006;
- E-03 Inlet – approved permanent May 23, 2005;
- E-06 Inlet – approved permanent December 5, 2006;
- TH-SD-10 Small Depression – approved permanent December 3, 2003;
- TH-SD-11 Small Depression – approved permanent December 3, 2003;
- TH-SD-12 Small Depression – approved permanent December 3, 2003;
- TH-SD-22 Small Depression – approved permanent May 16, 2011;
- TH-SD-24 Small Depression – approved permanent May 16, 2011;
- TH-SD-25 Small Depression – approved permanent May 16, 2011;
- TH-SD-26 Small Depression – approved permanent May 16, 2011; and
- TH-SD-28 Small Depression – approved permanent May 22, 2004.

All structures are structurally intact and the surrounding areas well vegetated.

15. The 312.2 acres 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 B-17 and F-01. 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 B-17 and F-01 shows that discharges have not exceeded the Texas Pollutant Discharge Elimination System (TPDES) water quality effluent standards (TPDES Permit No. 04122), and the Permanent Program Performance Standards set out in Subchapter K of the Commission's Regulations.

- (b). Revegetation has been established on the areas requested for release in accordance with §12.395 for the three land uses within the 312.2-acre area. Prior to Phase I release, the Director, in a letter from the Commission dated January 19, 2006, previously found that the initial postmine soil monitoring data for the areas did 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 2005 through 2007. The areas proposed for Phase II and Phase III release consist of postmine land uses of fish and wildlife habitat, pastureland, and developed water resources. 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). Fish and wildlife areas, pastureland, and areas surrounding developed water resources proposed for release from Phase II and Phase III reclamation liability are planted in a variety of species as required by §12.390, Regulations. Fish and wildlife habitat areas (138.1 acres) were

planted with a variety of trees including bald cypress, loblolly pine, various oaks, and plum. Pastureland areas (150.5 acres) were planted with Bahiagrass, Common and Coastal bermudagrass, Dallisgrass, and Johnsongrass. The areas with a postmining use of developed water resources (23.6 acres) that were not covered with water were planted with Common bermudagrass and native grasses and are sufficient to control erosion.

- (iii). No portion of the area proposed for Phase II release of reclamation liability have soils classified as prime farmland prior to mining for which specific soil reconstruction standards and specific yields apply.

16. Luminant reported baseline data from two surface water 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. Monitoring station HSW-T1 (PBW-T1) is located upstream of Rock Creek. Stream monitoring station HSW-T2 is located on a tributary of Rock Creek and has been used to continuously monitor hydrologic data from areas that have been impacted by mining and reclamation activities. Luminant has complied with the requirements of §12.349 for the 312.2-acre area proposed for Phase II and III release from reclamation obligations.

- (a). Both the disturbed and undisturbed area monitoring stations were monitored for total dissolved solids (TDS), total suspended solids (TSS), total and dissolved iron (Fe), total and dissolved manganese (Mn), settleable solids (TSM), and pH.
- (b). The runoff from the watershed disturbed by mining and subsequently reclaimed exhibits a lower flow-weighted average TDS concentration of 156 mg/L when

compared to the undisturbed watershed that has an average TDS concentration of 182 mg/L. The average pH values were similar for the LTSM Stations HSW-T2 (disturbed station, with an average value of 7.0 s.u.) and PBW-T1 (undisturbed station, with a slightly lower pH value of 6.8 s.u.). All discharge from the areas proposed for Phase II and Phase III release ultimately flows to the Sulphur River, TCEQ Stream Segment No. 0303. Based on these data, the flow-weighted TDS concentration for the disturbed watershed for HSW-T2 is within the stream-segment limitation (annual average) of 600 mg/L. The pH data for HSW-T2 is also within the pH stream-segment limitation of a range of 6.0-8.5 s.u. A comparison of the TDS, TSS, total Fe, and total Mn concentrations for the disturbed and undisturbed LTSM monitoring stations indicates that the concentrations were lower at the disturbed station. The TSM concentrations were similar at both monitoring stations.

17. Luminant has successfully completed all surface coal mining and reclamation activities for the acres requested for Phase III release (312.2 acres).
 - (a). Luminant submitted ground cover and tree and shrub stocking (stem-count) data for the 138.3 acres reclaimed as fish and wildlife. This acreage was placed into a land management unit (LMU) designated as 06-E-H. This LMU was accepted into the ERP on October 2, 2006. By letter dated February 16, 2012, Luminant submitted 2011 ground cover and stem-count data for the acreage, and by letter dated April 11, 2012, SMRD Staff indicated that the revegetation was successful and in accordance with §12.395(c)(2).
 - (b). Luminant submitted ground cover and productivity data for the 150.5 acres

reclaimed to pastureland. This acreage was placed into two (2) LMUs designated as 06-E-P and 09-F-P. LMUs 06-E-P and 09-F-P were accepted into the ERP on October 2, 2006 and August 5, 2009, respectively. By letters dated June 12, 2009 and February 5, 2010, Luminant submitted 2008 and 2009 ground cover data for LMU 06-E-P. By letters dated April 3, 2013 and April 10, 2014, Luminant submitted 2012 and 2013 ground cover data for LMU 09-F-P. By letters dated September 2, 2009 and March 16, 2010, for LMU 06-E-P, and July 30, 2013 and August 20, 2014, for LMU 09-F-P, SMRD Staff indicated that the ground cover data met or exceeded the requirements of §12.395(c)(2).

(c). Of the 312.2 acres proposed for Phase II and Phase III release, 23.6 acres have a postmining land use of developed water resources, for which the performance standard is that ground cover must be adequate to control erosion. The ground cover in these areas that is not covered with water is comprised of Common Bermuda and native grasses, and is adequate to control erosion, and therefore met or exceeded the requirements of §§12.389(a) and 12.347(a)(7-8).

(d). No wells are located within the proposed Phase III release area.

18. Groundwater has been protected in accordance with §12.348. Since 1992 Luminant has submitted quarterly groundwater monitoring data from overburden, underburden, and spoil aquifers in the Monticello - Thermo Mine as measured in the approved long-term groundwater monitoring (LTGM) wells. Luminant also provided trend analysis for all applicable LTGM wells.

(a). The premine overburden aquifers (shallow systems to a depth of approximately

100 feet) have been destroyed. Those aquifers, however, constituted only minor aquifers. The underburden aquifers are confined by clays ranging from 20-30 feet in thickness.

- (b). From the data examined, Staff notes that spoil monitoring wells B-33-R-20 and B-34-R-20 that have been in place since late 1990 have been declining for most of their periods of record. Such an apparent water-level decline is unusual in spoil monitoring wells in Texas mines; however, unlike these wells, most spoil monitoring wells at Texas mines do not have periods of record in excess of 20 years. These wells do show that resaturation has occurred and, although Staff is unable to determine the likely cause of this water-level declining trend, Staff posits that it may be related to decreasing permeability in the spoil with time. Staff does not believe that it represents a problem that is inconsistent with the approved groundwater probable hydrologic consequences (PHC) determination for the mine. Spoil monitoring well B-35-R-91, installed in 1991, appears to have achieved a maximum resaturation level in 2003 and is now static. Luminant has plugged applicable boreholes in accordance with the requirements of the Commission.
- (c). Long-term quarterly monitoring of the overburden aquifer units was obtained through LTGM wells TLT-1-OB-93, TLT-4-OB-98, and TLT-5-OB-98, which are the wells located nearest to the proposed areas of Phase III release. In LTGM well TLT-1-OB-93, the water level has declined from the premine level of approximately 545 ft amsl but is slowly recovering, appearing to have attained a new static level at about 530 ft amsl. As spoil saturation has occurred, the TDS concentration in this well rose somewhat from a premining concentration of about 125 mg/L to a high of about 250 mg/L in 2005 and 2006. TDS concentration has

declined since that time and is currently less than 160 mg/L. This temporary rise appears to be primarily the result of changes in chloride concentration, as sulfate appears to not have varied appreciably. For overburden LTGM well TLT-4-OB-98, water level dropped precipitously in late 2003 from the premining level of about 512 ft amsl to about 474 ft amsl and has remained at this re-established static level since that time, with a slowly increasing trend. TDS concentration, except for short-term anomalous spikes in mid-2005 and mid-2015, has remained at about 220 mg/L. For overburden LTGM well TLT-5-OB-98, water levels have remained relatively static at about 514 ft amsl until mid-2003 when it began a steep drop to about 485 ft amsl in 3rd Quarter 2004, with a subsequent slow decline until 3rd Quarter 2012, bottoming at 458 ft amsl. Since that time, water levels have exhibited a rising trend, currently having reached 471 ft amsl in 3rd Quarter 2015. TDS concentrations in this well have approximately mirrored the pattern of water level, except that the TDS concentrations have continued to decrease and are currently at a concentration of 208 mg/L as of the 3rd Quarter 2015. The observed changes follow the trends expected from the approved PHC determination.

- (d). Staff notes a trend in the underburden LTGM well B-34-UB-93, which is located near the center of the approved permit area. As indicated by Staff, the potentiometric surface exhibited only moderate fluctuation prior to 1999, during which water level ranged from 396 to 421 ft amsl, with a median elevation of about 417 ft amsl and standard deviation of 5.7 ft. Since 1999, water level has been more erratic, ranging from 359 to 464 ft amsl, with a median elevation of 396 ft amsl and a standard deviation of 22.3 ft. Staff indicates that a more robust statistical comparison of the two sample populations could be performed;

however, this stated observation shows that the variation in the data appears to have more than tripled in the post-1999 period as compared to the pre-1999 period. Staff states that the underlying cause of this change is not clear, although it has been postulated that the observed trends are the result of proximate, rapidly moving mining activities affecting the hydrostatic pressure in the overlying strata, but this change does not seem to have affected the over-riding trend of the sample data, as the trend-line slope is nearly linear. TDS concentrations over the same period have increased from approximately 425 mg/L to more than 1,000 mg/L. Premine underburden water-quality samples obtained in 1985 and 1986 in former baseline monitoring well C-23-UB-85 yielded an average TDS concentration of about 940 mg/L and a potentiometric surface elevation of about 430 ft amsl. Staff states that it is possible that these potentiometric surface changes and TDS concentration increases represented in the period of record for LTGM well B-34-UB-93 demonstrate a return to premine underburden water level and chemistry following changes induced by localized hydrostatic release that occurred during removal of overburden. It is also possible that the dramatic change in 1999 could have resulted from a physical defect in the well first occurring in that time frame or that it represents the onset of a contaminant plume at the well location (cause unknown) which has continued. Staff notes that during the ERP, the spoils-aquifer water quantity (as represented by water levels) and the water quality (represented by TDS concentrations) have generally stabilized. Localized mining-related effects to overburden water quantity have been temporary and are recovering to premine levels. Water quality or quantity in the overburden groundwater systems adjacent to the proposed release area have not been materially impacted as a result of the mining or reclamation

activities. With respect to groundwater systems, Luminant has complied with the requirements of the Regulations for the subject 312.2 acres 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.

19. The 312.2 acres have met requirements for release of Phase II and Phase III reclamation requirements and are recommended for Phase II and III release.
20. The areas approved for release of reclamation obligations are eligible for an adjustment to the required amount for 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.
21. 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 Addendum No. 1 to Staff's Technical Analysis. The Staff has filed its estimate of reduction in reclamation costs, \$217,291.20, based upon the Phase I mined rate of \$696 per acre, should the Commission approve the release requested. Acres mined comprise all 312.2 acres included in the release requested. A 10% amount (\$21,729.12) is then added for administrative costs, for a final total amount of \$239,020.32 that may be considered eligible for reduction in estimated costs of reclamation.
22. This docket has been posted for consideration by the Commission.

CONCLUSIONS OF LAW

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

1. Proper notice was provided for this request for release of reclamation obligations, and the Commission properly posted the docket for consideration.
2. No public hearing was requested, and none is warranted.
3. Luminant has complied with all applicable provisions of the Act and the Regulations for the release of Phase II and Phase III reclamation obligations for the areas requested for release as set out in the Findings of Fact.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the above Findings of Fact and Conclusions of Law are adopted;

IT IS FURTHER ORDERED that a release of Phase II and Phase III reclamation obligations for 312.2 acres of the Monticello-Thermo mine as set out in the Findings of Fact and Conclusions of Law is approved;

IT IS FURTHER ORDERED that all areas released from reclamation obligations shall remain clearly marked in the field with permanent boundary markers to distinguish these areas from active mining and reclamation areas in accordance with this Order;

IT IS FURTHER ORDERED that the current bond remains in effect according to its terms until 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 acreages are 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 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 of an application 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 at Austin, Texas March 20, 2018.

RAILROAD COMMISSION OF TEXAS


CHAIRMAN CHRISTI CRADDICK


COMMISSIONER RYAN SITTON


COMMISSIONER WAYNE CHRISTIAN

ATTEST:


Secretary
Railroad Commission of Texas