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**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. C20-0007-SC-33-F
APPLICATION BY THE SABINE MINING COMPANY
FOR RELEASE OF PHASE I, II AND III RECLAMATION OBLIGATIONS
FOR 24.6 ACRES
PERMIT NO. 33I, SOUTH HALLSVILLE NO. 1 MINE
HARRISON COUNTY, TEXAS**

**ORDER APPROVING RELEASE OF PHASE I, II AND III RECLAMATION OBLIGATIONS FOR
24.6 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 ("SMRD", or "Staff"), for a release of Phase I, II and III reclamation obligations for 24.6 acres within the South Hallsville No. 1 Mine located in Harrison County, Texas. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. (Vernon Supp. 2019) ("Act"), and the "Coal Mining Regulations," Tex. Railroad Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2019) ("Regulations").

Permit No. 33I currently authorizes surface coal mining and reclamation operations at The Sabine Mining Company's ("SMC") 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 SMC and the Commission's Surface Mining and Reclamation Division ("Staff", or "SMRD"). 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 24.6 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 requested by SMC and recommended by Staff. The current bond is calculated for the areas proposed for release by the worst-case bond method. With Phase III release, there is an eligible bond reduction amount that may be determined; however, the actual amount of bond liability attributable to the acreage granted release by this Order will be considered by the Commission when a bond adjustment is requested.

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

2

FINDINGS OF FACT

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

1. By letter dated September 19, 2019, The Sabine Mining Company ("SMC") filed an application ("Application") with the Railroad Commission of Texas' ("Commission") Surface Mining and Reclamation Division ("SMRD" and/or "Staff") for a release of Phases I, II, and III reclamation obligations for 24.6 acres located within the South Hallsville No. 1 Mine, Permit No. 33I, located in Harrison County, Texas. Permit No. 33I was most recently renewed by the Commission on February 26, 2019 (Docket No. C16-0023-SC-33-C). Based on the information provided by the applicant, Staff analyses, and the inspection of the area, Staff recommends release of reclamation obligations for all 24.6 acres requested in the application. The parties have filed waivers of preparation and circulation of a proposal for decision.
2. The Application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2019) ("Act"), and the "Coal Mining Regulations," Tex. Railroad Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2019) ("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 October 11, 2019. By letter dated October 15, 2019, the assigned Administrative Law Judge ("ALJ") reviewed the draft public notice submitted by SMC with its application. Staff determined the Application to be Administratively Complete by letter dated December 20, 2019.
4. By letter dated January 15, 2020 Staff filed its initial Technical Analysis (TA) and the report of field inspection ("Inspection Report") dated January 7, 2020, noting no outstanding concerns, and recommending approval of the requested Phase I, II, and III release on the requested 24.6 acres.
5. The existing reclamation bonds for Permit No. 33I, two self-bonds with third-party guarantors, total \$75,000,000. The most recent Commission action regarding bonding of Permit No. 33I was an approval of an additional bonding instrument in the amount of \$10,000,000 (Order dated May 8, 2012, Docket No. C12-0012-SC-33-D). The additional bonding instrument was required to supplement the existing \$65,000,000 (Order dated August 14, 2007, in Docket No. C7-0024-SC-33-E) bond due to an increase in the reclamation cost estimate for Permit 33I. 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. SMC does not request a reduction in the amount of the reclamation bond instruments in this application.

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

3

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, and in the office of the Harrison County Clerk in Marshall, Texas.
7. Notice of application was published once a week for four consecutive weeks in The *Marshall News Messenger* circulated in Harrison County on November 15, 22, and 29, December 6, 2019. The newspaper is a paper of general circulation in the area of the proposed release request area in Harrison County. The published notice of application contains all information required by the Act and Regulations for notice of an application requesting such release and is adequate notification of the request for release. The public 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. SMC submitted copies of letters to governmental agencies and to landowners within and adjacent to the proposed area of release, and proof of publication (tear sheets and publisher's affidavit) to Staff by letter dated December 12, 2019 (received on December 17, 2019), and transmitted copies of these letters and the proof of publication to Hearings Division, Docket Services on December 20, 2019.
8. SMC sent notice of the Application by certified mail to owners of interests within and adjacent to the areas requested for release. SMC 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. SMC mailed notice to the County Judge and Commissioners' Court of Harrison County, the Natural Resources Conservation Service's local office, 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 U.S. 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, 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 December 20, 2019.

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

4

9. Staff provided notification of the Application by certified letter dated November 13, 2019, 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.
10. 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).
11. 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 15, 2019, of the date and time of Staff's field inspection scheduled for November 7, 2019. 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.
12. The inspection occurred on November 7, 2019, as scheduled. One Commission inspector, two representatives from SMC, and one representative representing American Electric Power ("AEP") attended the field inspection. In its Inspection Report, SMRD Inspection and Enforcement Staff ("I&E Staff") found that the proposed area was eligible for the requested release.
13. The 44,401-acre permit area is located approximately three miles southeast of Hallsville, Texas, along Farm Road 968. The permit area is bordered to the north by U.S. Interstate 20. A general location map of the permit area, with the 24.6 total acres proposed for release distinguished, is found in Appendix I of Staff's Inspection Report.
14. The 24.6 acres proposed for release are comprised of one parcel located in the K Area of the mine and are north of Farm-to-Market Road 2625, with a portion of the southern boundary of the area adjoining the road.
15. The 24.6-acre proposed Phase I-III release area was approved as industrial/commercial (I/C) land use by SMRD letter dated September 22, 2016, for Revision No. 47 to Permit No. 33H. AEP intends to use the area for disposal of fly ash on these tracts, which are owned by SWEPCO. The proposed release area is depicted on the map provided in Attachment I of Staff's TA. Photographs of the area taken during the field inspection by I&E Staff are included in Appendix IV of the Inspection Report contained in Attachment III of the TA.

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 331, South Hallsville No. 1 Mine

5

16. Based upon the Application and Staff's review, the requirements for backfilling, regrading, and drainage control pursuant to §12.312(a)(1) of the Regulations have been met for the 24.6 acres requested for Phase I release:
- a. The area requested for Phase I release is stable with no active erosion evident. SMC placed the backfill material in a manner as to minimize erosion and water pollution and to support the postmine land use of I/C. [§12.384].
 - b. Mining operations were conducted between 1998 and 1999. Final grading of the proposed area was accomplished between 1998 and 2000. The Inspection Report reflects that SMC has regraded the area to its approximate original contour, eliminated all highwalls, placed suitable topsoil over regraded spoil, has not constructed any cut-and-fill terraces, and accomplished drainage control in accordance with approved reclamation plan. Surface water runoff from the proposed release area flows into Ponds K2 Upper and K2 Lower. [§12.385].
 - c. Postmine soil handling within the proposed Phase I release area consisted of placement of topsoil substitute material in the top four feet of the reclaimed surface. The proposed release area includes all or portions of twelve (12) soil-testing grids. SMC submitted initial soil sample results to the Commission by letters dated January 31, 2002, January 31, 2003, September 30, 2004, January 26, 2006, January 31, 2007, and June 15, 2007. By letters dated June 4, 2002, November 14, 2003, January 24, 2005, August 1, 2006, May 10, 2007, and June 29, 2007, SMRD determined that the results of this data indicate that the area is covered by a minimum of four feet of suitable material and do not indicate the presence of acid-and/or toxic-forming materials. In accordance with the approved soil-testing plan, soil-fertility sampling and random ten-percent soil testing does not apply to areas of I/C land use. [§12.386].
 - d. There are two permanent structures in the proposed Phase I release area, including Pond K2 Upper and Lower, a dual sedimentation pond, and K Area Access Road, a 1,600-ft portion of one road. Pond K2 Upper and Lower was approved by SMRD as a permanent structure by letter dated August 10, 2016. The 1,600-ft portion of the K Area Access Road was also approved by SMRD as a permanent structure by letter dated August 10, 2016. Photographs of the release are, including photographs of these structures, are provided in the TA in Attachment III (Inspection Report), Appendix IV. [§12.341].
 - e. All surface water from the proposed Phase I release area flows into approved sedimentation ponds, including the Pond K2 Upper and Lower within the release

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

6

- area. I&E Staff, in its Inspection Report, found all drainage features and their appurtenances to be structurally intact and stable. [§12.344].
- f. There are presently no waste disposal sites within the proposed Phase I release area. The proposed release area is included in an approved Texas Commission on Environmental Quality ("TCEQ") Industrial Solid Waste Registration SWR33240, held by AEP. [§12.375].
17. Based upon the Application and Staff's review, the requirements under §12.313(a)(2) of the Regulations for the establishment of revegetation and that discharges from the area not contribute suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by §134.092(a)(10) of the Act and Subchapter K of the Regulations, have been met for the 24.6 acres proposed for Phase II release.
- a. 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.
- b. No prime farmland, for which additional requirements would be applicable, are located within the areas requested for release. [§§12.620 - 12.625].
- c. Revegetation has been established on the 24.6-acre area requested for Phase II release consistent with I/C land use, in accordance with §12.313(a)(2) of the Regulations, for those areas not covered by water. Permanent vegetation in the proposed release area includes a mix of grasses, hardwoods, Loblolly and Longleaf pine planted from 2000 to 2001. SMC submitted a groundcover and stem-count measurement report for 19.8 acres that included 13.66 acres in the proposed I/C release area by letter dated on August 9, 2019, approved by letter dated September 3, 2019. SMC submitted a modified ground cover and stem count report covering 22.4 acres, on December 11, 2019. The application was approved by letter dated January 6, 2020 (as noted in Staff's TA page 4). [§12.395].
- d. Soil fertility data are not required for I/C land use; nevertheless, Staff notes in its TA that that initial minesoil sampling was conducted in accordance with the permit approved at the time of sampling, that all data have been approved by the Commission, and that data for the 12 soil grids within the proposed Phase II release area were submitted from 2002 to 2007 and have met all suitability requirements.
- e. As set out in Finding of Fact No. 18(c), *infra*, the 24.6-acre area proposed for Phase II and III release is not contributing excess solids to streamflow or runoff outside the

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

7

permit area in excess of effluent limitations set out in the water quality permit or in excess of stream segment standards.

18. SMC has successfully completed all surface coal mining and reclamation activities for the 24.6 total acres requested for Phase III release. Requirements for the completion of vegetative standards have been met. The completion of an Extended Responsibility Period is not required for I/C land use. Staff has approved all structures within the areas as permanent. Surface water and groundwater within and adjacent to proposed release areas have been protected in accordance with §§12.313(a)(3), 12.348 and 12.349 of the Regulations.
 - a. The two structures in the 24.6 proposed release area are described in Finding of Fact No. 16(d), *supra*, and have been approved as permanent, as noted.
 - b. SMC has conducted surface coal mining and reclamation operations in the 24.6 acres requested for Phase III release in a manner protective of groundwater quality and quantity, in accordance with §12.313(a)(3) of the Regulations.
 - i. In addressing the requirements of §12.348, SMC has submitted groundwater monitoring data for the overburden, spoil, and underburden aquifers within and adjacent to the proposed Phase III release area. Groundwater monitoring has been performed in accordance with the provisions of the approved permit. Long-term groundwater monitoring records have been reviewed by Staff on a quarterly basis.
 - c. In support of this and other release applications, SMC submitted a *2018 Ground-Water and Surface-water Assessment in Support of Phase III Bond Release Applications* by letter dated April 9, 2018. The assessment was reviewed by Staff by letter dated October 26, 2018, in which Staff found, with certain exceptions, that the assessment satisfactorily demonstrates that the surface-water and groundwater hydrologic balance has been protected in the proposed Phase III release area. By letter dated October 7, 2019, SMC submitted a supplement to its earlier assessment report. In this supplemental assessment, SMC included groundwater monitoring data through second quarter 2019 for 50 long-term groundwater monitoring (LTGM) wells, including 19 wells that could be considered overburden monitoring wells, 13 underburden monitoring wells, and 18 spoil monitoring wells. No groundwater monitoring wells are located within the proposed Phase III release area.
 - i. Data from the overburden wells showed no significant impacts to water levels. Where drops in water levels were observed, they were temporary and attributable to seasonal fluctuations and climactic variations. The data from these wells

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

8

additionally showed no significant deterioration in water quality. The supplemented report contains a tabulation of analytical data for the period of record (POR) through mid-2019 for each LTGM well. Staff, in its evaluation, provides time-series plots showing trends for the water-table elevation, pH and total dissolved solids (TDS) concentrations in K Area and certain A-Area wells for the POR. TDS concentrations in native overburden aquifers in the undisturbed areas are low, at about 50 mg/L, except for two LTGM wells. One typically exhibits concentration of about 200 mg/L. In the other, concentration of less than 220 mg/L rose to almost 1,100 mg/L starting in 2000 and peaking in 2012 and has since dropped to levels of about 500 mg/L. Overburden pH for the K- and A-Area wells appear to range from 2.9 to 8.9 s.u., with a median pH of about 6.0 s.u. One well located on the northwestern edge of K Area, adjacent to a tributary of Hatleys Creek, well PZ-13R3U, shows a rising trend in TDS concentration and decreasing pH, indicating a localized area of water movement from the reclaimed spoil mass into the adjacent native overburden; however, the overburden in this area is not a used groundwater source. No substantive impacts to water quality in overburden wells have been observed that can be attributed to the mining activities.

- ii. Data from underburden wells in areas adjacent to the proposed release area show no substantive changes to water level and water quality in the underburden. None of the underburden monitoring wells have shown a reduction of the potentiometric surface during mining. These data demonstrate that no adverse impacts to water quantity or quality have occurred to the underburden resources in and adjacent to the proposed release area.
- iii. Available water-level data for the spoil monitoring wells show that most mine areas are nearly fully saturated. Staff did not compare these wells to the predictions contained in its approved cumulative hydrologic impact assessment ("CHIA") or SMC's probable hydrologic consequences ("PHC") determination; however, it did provide an assessment of the seep potential from the spoil based on LTGM well water levels. On page 11 of its January 15, 2020, TA, Staff describes the nature of several of the spoil monitoring wells as "phreatic (flowing)," in that the static water level of the wells is above the ground surface. These wells are thus akin to seeps, and many of them occur in an area of known postmine acidic seeps located north of the proposed release area. Irrespective of the proximity to areas exhibiting acidic seeps, none have been identified within the proposed release area that have not been successfully remediated.
- d. SMC has conducted surface coal mining and reclamation operations in accordance with §12.313(a)(3) and §12.349 to protect surface-water quality and quantity in the area proposed for Phase III release.

- i. Staff's review of sedimentation pond data and long-term surface-water monitoring ("LTSM") data demonstrates that no negative impacts to water quality are anticipated from flows leaving the proposed release area and that surface-water quality has been protected. In support of this and other release applications, SMC submitted a *2018 Ground-Water and Surface-water Assessment in Support of Phase III Bond Release Applications* by letter dated April 9, 2018. The assessment was reviewed by Staff by letter dated October 26, 2018, in which Staff found, with certain exceptions, that the assessment satisfactorily demonstrates that the surface-water and groundwater hydrologic balance has been protected in the proposed Phase III release area. By letter dated October 7, 2019, SMC submitted a supplement to its earlier assessment report. In this supplemental assessment, SMC included surface-water monitoring data through second quarter 2019 for the approved LTSM stations. SMC also provided additional sediment-pond discharge data in the release application.
- ii. Runoff from disturbed areas is monitored under the Texas Pollutant Discharge Elimination System (TPDES) Permit No. 02538, which Staff evaluated relative to applicable stream segment criteria and provisions outlined in the approved long-term surface-water monitoring plan in Permit No. 33I. All drainage from the proposed Phase III release area flows into the K2 Permanent Impoundment, which controls runoff that drains via Hatleys Creek to TCEQ Stream Segment No. 0505 (*Sabine River Above Toledo Bend Reservoir*). In its 2018 annual surface-water and groundwater assessment (with 2019 supplement), SMC provided water-quality data for eight LTSM stations and six baseline stations. The LTSM stations included upstream and downstream pairs for Hatleys Creek (Stations HC-1 and HC-2), Hardin Creek, Rodgers Creek, and an unnamed tributary of Clarks Creek that traverse Permit No. 33I. Data collected and evaluated included measurements of pH, total dissolved solids ("TDS"), total suspended solids ("TSS"), total iron ("Fe"), and total manganese ("Mn"). In its TA for this application, Staff focused on the assessment of the LTSM data for stations located on Hatleys Creek; i.e., for upstream Station HC-1 and downstream Station HC-2.
- iii. A comparison of surface-water quality data that were obtained from the baseline monitoring stations on Hatleys Creek with the corresponding LTSM-station data shows that pH and concentrations of TDS, total Fe and total Mn are similar. The Sabine River baseline monitoring station data also show that average pH and concentrations of TDS, total Fe and total Mn are similar to the LTSM stations.

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 331, South Hallsville No. 1 Mine

10

- A. At downstream Station HC-2 on Hatleys Creek, surface-water TDS concentrations ranged between 192 and 208 mg/L, well below the TCEQ stream-segment criterion limit of 400 mg/L.
- B. pH measurements at downstream Station HC-2 have been consistently between 6 and 8 s.u., within the TCEQ stream-segment criteria of 6.0 to 8.5 s.u. As summarized by Staff, four consecutive quarterly grab samples from the K2 Impoundment were collected in 2011 and 2012. The pH of these samples has ranged between 6.80 s.u. and 7.74 s.u.
- C. LTSM data at downstream Station HC-2 show that concentrations of total iron since 2012 are trending downward and are similar to total iron concentrations measured at upstream Station HC-1, and are similar to total iron concentrations collected prior to mining at Hatleys Creek Stations H-1 and H-2 during baseline monitoring efforts. The average total iron at Station HC-2 since 2012 is 4.85 mg/L. The average total iron at Station HC-1 since 2012 is 3.83 mg/L. The average total iron for the baseline monitoring was 4.00 mg/L at Station H-1 and 3.62 mg/L at Station H-2.
- D. LTSM data show that concentrations of manganese since 2012 at downstream LTSM Station HC-2 are trending downward and are nearly the same as or lower than manganese concentrations measured at HC-1 upstream of mining activities, and nearly the same as manganese concentrations collected at baseline Stations H-1 and H-2. The average manganese concentration at Station HC-2 since 2012 is 0.24 mg/L. The average at HC-1 for the same period is 0.13 mg/L, and the average manganese concentrations for the baseline monitoring effort were 0.25 mg/L at Station H-1 and 0.72 mg/L at Station H-2.
- E. The quarterly sample data were collected before a seep, identified as "Seep 8," developed in the embankment of the K2 Upper Permanent Impoundment. In 2016, SMC received approval for and modified the impoundment to inundate Seep 8 as part of its plan to remediate the acid seep. Effluent discharge data have been continuously collected from the K2 Permanent Impoundment as monitored under the TPDES permit. These data, provided in Appendix 6-5 of the release application and evaluated by Staff, show that the pH of the discharges from the K2 Permanent Impoundment remain above 6.0 s.u. and are trending upward. K2 Permanent Impoundment discharges in 2016 had pH measurements which ranged between 6.5 and 7.6 s.u.; discharges in 2017 had pH measurements which ranged between 7.4 and 7.9 s.u.; and, discharges in 2018 had pH measurements which ranged

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

11

between 7.4 and 8.1 s.u. SMRD inspectors note that the 24.6-acre area under review has no visible seeps. Staff has noted, therefore, that SMC's Seep 8 remediation efforts appear to have been successful.

- iv. SMC provided data for Ponds K1, K2, K3, K5, and K11 measuring pH, Total Settleable Matter (TSM), and flow. The available data indicates compliance with TDPEs effluent criteria and does not indicate any unusual trends.
19. The areas requested for release of reclamation obligations are capable of sustaining the postmine land use. Monthly inspections and Staff's inspection on November 7, 2019, demonstrate that the land has been reclaimed to and managed in accordance with the approved I/C postmine land use.
 20. Based on the terms of the approved permit, there is an eligible bond reduction amount for acreage once it is approved for release of Phase III reclamation requirements, given that bonded areas within Permit No. 33I are bonded based upon the "worst-case" bond method (see Findings of Fact No. 5, *supra*). This method estimates reclamation costs of reclaiming the worst-case pit and reclamation of structures, and assumes that all other disturbed areas are reclaimed contemporaneously, so that there is no eligible bond reduction amount until Phase III release is approved; at that time, the remaining reclamation costs for the bonded acreage will be soil preparation, revegetation, and maintenance costs, retained until Phase III release is approved. Further, the Commission is not required under the Act or the Regulations to determine an eligible bond reduction amount when approving an application for release, and the actual amount of bond liability attributable to the acreage granted release by this Order will be determined by the Commission when a bond adjustment is requested. Staff's calculated eligible amount, if approved by the Commission in this Order, is \$18,887.88. 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.
 21. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.
 22. SMC 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.
 23. Open meeting notice has been posted for Commission consideration of this application in accordance with Tex. Gov't Code Ann. Ch. 551 (Vernon Supp. 2019).

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

12

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. SMC 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. SMC 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 I, II, and III reclamation obligations for the 24.6 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 SMC continue marking the area approved for release so that Staff mapping and tracking will be efficient.
7. SMC is eligible to the reduce the amount of bond for Permit No. 33I by an amount that is attributable to the subject 24.6 acres in future bond adjustments.

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 I, II, and III reclamation obligations for 24.6 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;

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

13

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 SMC is eligible to reduce the amount of bond for the permit by the amount that is attributable to the 24.6 acres granted full release in this Order; and

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

Docket No. C20-0007-SC-33-F
The Sabine Mining Company
Permit No. 33I, South Hallsville No. 1 Mine

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 on April 21, 2020.

RAILROAD COMMISSION OF TEXAS

DocuSigned by:
Wayne Christian
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CHAIRMAN WAYNE CHRISTIAN

DocuSigned by:
Christi Craddick
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COMMISSIONER CHRISTI CRADDICK

DocuSigned by:
Ryan Sitton
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COMMISSIONER RYAN SITTON

ATTESTS

DocuSigned by:
Callie Farrar
3581080DFDE0376

Secretary
Railroad Commission of Texas

