

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

**SURFACE MINING DOCKET NO. 16-0002-SC-34-F
APPLICATION BY LUMINANT MINING COMPANY LLC
FOR PHASE II AND III RELEASE OF RECLAMATION OBLIGATIONS
FOR 418.0 ACRES, PERMIT NO. 34F, MONTICELLO WINFIELD MINE
TITUS AND FRANKLIN COUNTIES, TEXAS**

**ORDER APPROVING PHASE II AND III RELEASE OF RECLAMATION
OBLIGATIONS FOR 418.0 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, for the release of Phase II and III release of reclamation obligations for 418.0 acres within Permit No. 34F, Monticello Winfield Mine, Titus and Franklin Counties, Texas. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2020), and the "Coal Mining Regulations," Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2020). No new bond instrument has been filed, and Luminant does not request reduction of the bond at this time.

Permit No. 34F currently authorizes surface coal mining operations at the Monticello Winfield Mine within an approximate permit area of 26,732.0 acres. Copies of the application for release were filed in the required county and Commission offices, and notice was mailed to landowners of the area requested for release and to adjoining landowners. After public notice, no comments or requests for hearing were filed. The only parties to the proceeding are Luminant and the Commission's Surface Mining and Reclamation Division. There remain no outstanding issues between the parties. Based on the information provided by the Application, Staff's technical analysis and addendum, and the field Inspection Report for the proposed areas of release, Staff recommends the approval of release of reclamation obligations for the requested release phases for the aggregate 418.0 acres. The parties have filed waivers of preparation and circulation of a proposal for decision.

Based upon the evidence in the record, reclamation requirements have been met for the acreage requested for release. The Commission approves the request as set out in this Order. Luminant is eligible to reduce the bond by an amount attributable to released phases for the 418.0 acres when a future adjustment to the bond is requested.

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FINDINGS OF FACT

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

1. By letter dated September 10, 2015, Luminant Mining Company LLC (Luminant) filed an application with the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division (SMRD and/or Staff) for Phase II and III Release of Reclamation Obligations for 418.0 acres, within Permit No. 34F, Monticello Winfield Mine, in Titus and Franklin Counties, Texas. The 418.0 acres are contained within two parcels located in the H Mine Area, located in Titus County.
 - a. By letter dated December 14, 2015, the SMRD Director declared the Application administratively complete. By letter dated July 20, 2016, Staff filed with Docket Services its Technical Analysis (TA).
 - b. By letter dated May 5, 2017, Luminant requested that the Application be suspended. By letter dated May 10, 2017, the prior Administrative Law Judge (ALJ) suspended the Application as requested by Luminant to allow it to supplement. By letter dated January 24, 2018, Luminant submitted Supplement No. 1 to respond Staff's concerns noted in Staff's initial TA and the ALJ lifted the Application's suspension.
 - c. By letter dated December 21, 2018, Staff submitted Addendum No. 1 to its TA indicating that Luminant had not satisfactorily addressed the requirements of Phase II and Phase III release of reclamation obligations as it concerned surface-water release demonstrations, specifically sedimentation-pond monitoring data and surface-water quantity. By Luminant's request, the application was again suspended from June 31 to December 1, 2019. By letter dated October 7, 2019, Luminant submitted Supplement No. 2 to respond to Staff's TA Addendum No. 1, and the ALJ again lifted the suspension of the Application.
 - d. By letter dated July 29, 2020, Staff filed Addendum No. 2 to its TA, indicating that Luminant had satisfactorily addressed the requirements for Phase II and III release of reclamation obligations on the requested 418.0 acres.
 - e. The application, as modified in Supplement Nos. 1 and 2, and with inclusion of the public notice tear sheets and affidavits submitted by letter dated December 8, 2015, is collectively considered the "Application." The procedural history of the Application and associated actions is set out below:

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DATE	ACTION
September 10, 2015	Luminant submits application for Phase II and III Release of Reclamation Obligations on 418.0 Acres.
September 15, 2015	SMRD notifies landowners of Luminant's Application
October 6, 2015	SMRD inspection of proposed release area
December 8, 2015	Luminant submits copies of notification letters to adjacent landowners.
December 14, 2015	SMRD Director declares the Application complete.
June 22, 2016	Staff's Inspection Report completed
July 20, 2016	Staff's Technical Analysis (TA) dated July 20, 2016, and Inspection Report dated June 22, 2016, filed with ALJ.
May 4, 2017	Luminant requests Application be suspended to supplement the Application
May 10, 2017	ALJ grants Luminant's request to suspend the Application.
January 24, 2018	Luminant submits Supplement No. 1
December 21, 2018	Staff TA Addendum No. 1 dated December 21, 2018, filed with ALJ.
April 8, 2019	Letter informing the parties that docket has been reassigned to ALJ Ruberto
July 26, 2019	Luminant requests Application continued to be suspended.
July 31, 2019	Letter from ALJ granting Luminant's request to continue suspension until December 1, 2019.
August 13, 2019	Letter from ALJ Ruberto notifying Applicant that Technical Examiner Walter has also been assigned to this docket
October 7, 2019	Luminant submits Supplement No. 2
June 11, 2020	Letter from ALJ Ruberto requesting the status of the Application from the parties.
July 29, 2020	Staff TA Addendum No. 2 dated July 29, 2020, filed with ALJ

2. The Application is made pursuant to Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2020) ("Act"), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch. 12 (Thomson West 2020) ("Regulations"). The Application was properly certified in accordance with §12.312(a)(3).
3. Luminant currently bonds all of its statewide mining operations, including those conducted under Permit No. 34F, with a blanket collateral bond in the amount of \$975,000,000, which

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was accepted by Commission Order dated September 27, 2016 [Docket No. C16-0021-SC-00-E]. No changes to the accepted bond are proposed in the Application.

4. Notice of the Application was published once per week for four consecutive weeks in the *Mount Vernon Optic-Herald* and the *Mount Pleasant Daily Tribune*, newspapers of general circulation in the vicinity of the Monticello Winfield Mine in Franklin and Titus Counties, respectively. The *Mount Pleasant Daily Tribune* is a newspaper of general circulation in Titus, Camp, Franklin, and Morris Counties while the *Mount Vernon Optic-Herald* newspaper circulates in Franklin County. Dates of publication in the *Mount Vernon Optic-Herald* were November 5, 12, 19, and 26, 2015. Dates of publication in the *Mount Pleasant Daily Tribune* were November 5, 12, 19, and 26, 2015. The notice of application contains all information required by §134.129 of the Act and §12.312(a)(2) of the Regulations for notice of application for release of reclamation obligations. The notice contains a statement that the applicant does not seek a reduction in the approved bond but that an eligible bond reduction amount may be determined. The published notice is adequate notification of the request for release. The notice included 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 the approved bond, the type of and appropriate dates on which 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, and the address to which comments should be sent. The notice included a map showing sufficient notice of the boundaries of the area requested for release. Luminant submitted affidavits of publication with newspaper clippings by letter dated December 8, 2015.
5. 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).
6. Copies of the Application were filed for public review in the offices of the County Clerk of Franklin and Titus Counties, Texas, and in the offices of the Surface Mining and Reclamation Division, Railroad Commission of Texas at 1701 North Congress Avenue, William B. Travis Building, Austin, Texas.
7. Luminant sent notice of the Application to owners of interests within and adjacent to the areas requested for release. Luminant also sent notice to local governmental bodies, planning agencies, sewage and water treatment authorities and water companies in the locality as required by §12.312(a)(2) of the Regulations. The notice was provided via first-class letter in multiple mailings dated October 30, 2015. Luminant mailed notice to the U.S. Army Corps of Engineers (Fort Worth District), Natural Resources Conservation Service (Mount Pleasant Office), Texas Commission on Environmental Quality (Austin

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- Office), Texas Department of Highways and Public Transportation (Mount Pleasant Office), Texas State Soil and Water Conservation Board (Temple and Mount Pleasant Offices), Tri-Special Utility District (Mount Pleasant), Southwestern Bell Telephone Company (Dallas Office), South Franklin Water Supply Corp (Mount Vernon), Verizon (Dallas Office), Wood County Electric Coop Inc. (Quitman Office), , City of Mount Pleasant, Titus County Courthouse (Mount Pleasant), and Franklin County Courthouse (Mount Vernon). Copies of notification letters were filed by Luminant with the Commission by letter received on December 8, 2015.
8. SMRD notified the County Judges of Titus and Franklin Counties of the Application as required by §134.133 of the Act by certified letters dated October 5, 2015. SMRD also notified the Mayor of the City of Mount Pleasant, Texas, by certified letter dated October 5, 2015, because the Permit No. 34F area is partially located within the city of Mount Pleasant pursuant to §12.313(c) of the Regulations. Mailing of notification was provided at least 31 days prior to the date of consideration of the docket by the Commission in accordance with §134.133 of the Act. A copy of the letter was provided in Attachment II of Staff's TA.
 9. Pursuant to §12.312(b) of the Regulations, Staff notified owners of interests in lands and lessees within the requested release area of the Application and the Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office by letters dated September 15, 2015, of the date and time of Staff's field inspection scheduled for October 6, 2015. The notification stated that the subject release had been requested and, pursuant to §12.312, advised recipients of the opportunity to participate in the on-site inspection. Staff provided copies of the letters in Appendix II of Attachment III (Inspection Report) of the TA.
 10. The inspection occurred on October 6, 2015, as scheduled. SMRD Inspection and Enforcement ("I&E") Staff Inspectors Brad Martin and Lindsay Lang, accompanied by Luminant representatives Mr. Monty Ward and Ms. Cindy McCoy, conducted the inspection of the areas requested for release.
 11. The permit area is comprised of approximately 26,732 acres located approximately 2 miles north of Mount Pleasant, Texas, in Titus and Franklin Counties. The 418.0 acres proposed for release are located in the H-Area of the mine. A general location map of the permit area, with the 418.0 acres proposed for release identified, is found in Appendix I of Staff's Inspection Report. The area is depicted in photographs taken during Staff's inspection. The Application, photographic evidence, Staff's Inspection Report, and Staff's TA and TA Addenda Nos. 1 and 2 provide support for various phases of release of reclamation obligations for certain parcels comprising the subject 418.0 acres. In its TA and TA Addenda Nos. 1 and 2, Staff evaluated the proposed release Application by dividing the proposed release areas into 2 parcels based on geographical location and permanent

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infrastructure, as shown on figures contained in Staff's July 20, 2016 initial TA (Attachment I).

12. The Commission previously approved Phase I release of reclamation liability for the 418.0 acres proposed for Phases II and III release by Order dated September 14, 2010 [Docket No. C10-0014-SC-34-F].
13. The approved postmine land uses within the 418.0-acre proposed release areas consist of pastureland (92.24 acres), fish and wildlife habitat (86.31 acres), developed water resources ("DWR") (82.59 acres), and forestry (156.86 acres), for a total of 418.0 acres. The postmine land-use area for the Phases II and III release shown in Section IV, page IV.A.5-1 of the application is 418.0 acres, as follows (Staff's Inspection Report).

Approved Postmining Land Uses Within the Proposed Release Area

Postmine Land Use	Phases II & III Acreage	Percent of Total
Forestry	156.86	37.52
Pastureland	92.24	22.07
Fish and Wildlife Habitat	86.31	20.65
Developed Water Resources	82.59	19.76
Total	418.0	100.0

14. According to Table 1-1, *Historical Information for the Monticello-Winfield 418.0-Acre Area* on page 1-2, the proposed release areas were disturbed by mining-related activities, regraded, revegetated, and placed into the ERP from 1999 to 2009. The 418.0 acres proposed for Phase III release were accepted into the ERP by letter dated December 16, 2009. The ERP, submitted by letter dated August 24, 2009, originally consisted of 417.9 acres. Specifically, the proposed ERP stated the area of forestry land use as 156.8 acres. Under this proposed Phase II and III bond release application, Luminant has stated that the same area consists of 156.86 acres of forestry land use. The additional 0.06 acres of forestry land accounts for the difference between the 418.0-acre proposed bond release representing the area proposed in a 417.9-acre ERP.
15. Photographs were provided in TA Appendix V of all permanent structures located within the proposed Phase III release areas. Three (3) impoundments, five (5) access roads, one (1) diversion, five (5) drop structures, nine (9) inlets/spillways, and three (3) small depressions, all approved as permanent structures, are located within the proposed Phase III release areas. The following is a list of all permanent structures located within the proposed Phase III release areas, including their approval dates as permanent structures and the corresponding photo number in Appendix V (TA):

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Impoundment	Approval Date	Photo Number
HR-10 Permanent Impoundment	5/9/2005	2-5, 7
H-3R Permanent Sedimentation Pond	12/19/2006	24-26, 39, 41
H-3 Permanent Impoundment	3/6/2009	16-18

Road	Approval Date	Photo Number
H-Area Permanent Service Road No. 4	09/12/2002	10
H-Area South Entrance Road	08/20/1997	12
H-4 Pond Access Road Modification	01/15/1998	14
H-Area Access Road No. 5 Modification No. 1	12/12/2011	1, 11
H-3 Pond Access Road	05/16/2000	27, 31

Diversion	Approval Date	Photo Number
H-3R Diversion	12/19/2006	33

Drop Structure	Approval Date	Photo Number
H-3A Drop Structure	12/19/2006	32
H-3B Drop Structure	12/19/2006	34
H-3C Drop Structure	12/19/2006	35
H-3D Drop Structure	12/19/2006	37
H-3R-1 Drop Structure	12/19/2006	36

Inlet/Spillway	Approval Date	Photo Number
H-3 Spillway	3/6/2009	19, 20
H-3A Inlet	3/6/2009	21
H-3B Inlet	3/6/2009	15
H-3R Spillway	12/19/2006	22, 23
H-3R-A Inlet	12/19/2006	38
H-3R-B Inlet	12/19/2006	40
H-3R-C Inlet	12/19/2006	42
HR-10 Inlet A	5/9/2005	8
HR-10 Inlet B	5/9/2005	9

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Small Depression	Approval Date	Photo Number
HSD-15	12/17/2013	13
HSD-16	12/17/2013	28-30
HSD-17	12/17/2013	6

16. The 418.0 acres proposed for release from Phase II requirements are not contributing suspended solids to streamflow or runoff outside the permit area in excess of established effluent limitations pursuant to §12.313(a)(2). An examination of water discharged from sedimentation ponds to receiving streams shows that the water-quality requirements of §12.349 have been met. Mining activities were conducted to minimize the formation of acidic or toxic drainage and to prevent additional contributions of suspended solids to streamflow outside the permit area and to otherwise prevent water pollution. Based upon the Application, Commission records, and Staff review, Phase II surface-water quality and quantity have been protected as demonstrated by the surface-water monitoring data collected in accordance with the approved long-term surface-water monitoring ("LTSM") plan in the permit. Luminant has successfully completed all activities related to revegetation of the 418.0 acres proposed for release of Phase II and III reclamation obligations in accordance with the approved reclamation plan and §12.313(a)(2)-(3) and §12.395 of the Regulations, including completion of the ERP, as applicable. Additionally, a random 10% resampling of required soils within the proposed release area indicates the subject acreage may be granted Phase III release, having satisfied the soil suitability requirements of §12.335 and §12.386 of the Regulations and the requirements of the approved postmine soil-testing plan. Revegetation has been established on the areas requested for release in accordance with §12.395 of the Regulations.
 - a. Staff's inspection report indicates that Reclamation efforts within the proposed Phase II release areas have been inspected monthly, concurrent with the revegetation operations, since 1999. The vegetation observed within the proposed release area, planted between 2004 and 2007, appears healthy and self-sustaining. [§12.390-12.395].
 - b. Staff's initial TA indicates that the 418.0 acres proposed for Phase II release of reclamation obligations have a postmine land use of developed water resources (82.6 acres), fish and wildlife habitat (86.3 acres), forestry (156.9 acres), and pastureland (92.2 acres). Staff's indicates that observations made during the inspection, as well as monthly compliance inspections, have confirmed that the land has been reclaimed to and managed in accordance with the approved postmine land uses. [§§12.147, 12.399].

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- c. Developed water resource areas (82.6 acres) proposed for release from Phase II reclamation liability are comprised of permanent impoundments. Staff's inspection report indicates that the ground cover in this area that is not covered by water is comprised of Common bermudagrass and native grasses and is adequate to control erosion. [§12.391].
- d. Fish and wildlife areas (86.3 acres) proposed for release from Phase II reclamation liability are planted with a variety of trees including loblolly pine (*Pinus taeda*), oaks (*Quercus* sp.), and sweetgum (*Liquidambar styraciflua*). [§12.391]. All of the 86.3 acres that have a postmining land use of fish and wildlife habitat were included in the 09-H-H Land Management Unit (LMU) (08/24/2009 ERA). Luminant submitted 2014 ground cover and stem count data for this LMU by letter dated December 29, 2014. By letter dated May 8, 2015, the SMRD determined that the ground cover data for the 09-H-H LMU indicated the vegetation met the performance standards in accordance with §12.395(c)(2).
- e. Forestry areas (156.9 acres) proposed for release from Phase II reclamation liability are dominated by loblolly pine (*Pinus taeda*). [§12.391]. All of the 156.9 acres that have a postmining land use of forestry were included in the land management unit (LMU) designated as 09-H-F (08/24/2009 ERA). Luminant included a copy of the ground cover and stem count approval letters in Section VI of the application documenting that Luminant submitted 2014 ground cover and stem count data for LMU 09-H-F by letter dated December 29, 2014. By letter dated May 8, 2015, the SMRD determined that the ground cover and stem count data for 09-H-H LMU indicated the vegetation met the performance standards in accordance with 12.395(c)(2). Luminant lists the acreage of LMU 09-H-F as 156.85 in Table IV.A.4-3 of the application and lists the acreage of the same LMU as 156.86 on the following page in Section IV.A.5. [§12.395].
- f. Pastureland areas (92.2 acres) proposed for release from Phase II reclamation liability are comprised of Common and Coastal bermudagrass. [§12.391]. All of the 92.2 acres that have a postmining land use of pastureland were included in the land management unit (LMU) designated as 09-H-P (08/24/2009 ERA). Luminant included a copy of the ground cover and productivity data approval letters in Section VI of the application documenting that:
 - (1) Luminant submitted 2011 ground cover and productivity data for the 09-H-P LMU by letter dated April 12, 2012. By letter dated September 18, 2012, SMRD determined that the productivity data for LMU 09-H-P met the performance standards in accordance with §12.395(c)(2).

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- (2) Luminant submitted 2012 ground cover and productivity data for the 09-H-P LMU by letter dated April 8, 2013. By letter dated September 17, 2013, SMRD determined that the production data for LMU 09-H-P met the performance standards in accordance with §12.395(c)(2).
- g. In Table III.A.3-2 of the Application, "Monticello-Winfield Mine, Maintenance Soil Sample Data," Luminant lists one pastureland land management unit (LMU), LMU 09-H-P, the area the LMU covers (92.24 acres), the ERP initiation date (August 24, 2009), and the approval dates for soil-fertility data. By letters dated August 31, 2011, August 20, 2012, and July 29, 2013, SMRD indicated that soil-fertility data for samples collected in 2010, 2011, and 2012, respectively, did not indicate that augmented fertilization occurred within LMU 09-H-P during the 2010 through 2012 growing seasons. (Staff's TA).
- h. By letter dated December 22, 2014, SMRD indicated that it would be reasonable to exclude ERAs initiated on or before January 25, 2010, from this reinstituted sampling requirement if data demonstrating Phase III revegetation success had already been approved at the time this change to the STP became effective. The ERP for the LMUs in this docket was initiated on August 24, 2009. Revegetation-success data for pastureland LMU 09-H-P proposed for release were approved in 2011 and 2012, before this STP requirement was re-instituted; therefore, LMU 09-H-P was exempt from the 10% re-sampling requirement. Ground-cover and stem-count data for fish and wildlife habitat LMU 09-H-H and forestry LMU 09-H-F were not submitted to the Commission until December 29, 2014; hence, these LMUs were subject to the 10% re-sampling requirement.
- i. By letter dated July 28, 2015, Luminant submitted soil-testing data for a random 10% of the previously sampled grids in six LMUs, including LMUs 09-H-F and 09-H-H. By letter dated December 17, 2015, SMRD indicated that Luminant had satisfied the requirement of the approved STP to resample a random 10% of previously sampled grids in the fourth (or later) year of extended responsibility within fish and wildlife habitat LMU 09-H-H and forestry LMU 09-H-F (copy of letter in Attachment IV).
- j. Each of the two parcels proposed for Phase II and III release contain pastureland, in the form of LMU 09-H-P. For pastureland to be eligible for Phase II release, vegetative ground cover must be successfully established [§12.313(a)(2)], as manifested in ground-cover estimates that equal or exceed 90% of the approved standard [§12.395(a)(2)]. For pastureland to be eligible for Phase III release, vegetation parameters must equal or exceed the approved standards during the growing seasons of any two years of the ERP.

except the first year [§12.395(c)(2)]. Luminant reports (Table IV.A.4-1 on page IV.A.4-2) that it has met this requirement for pastureland LMU 09-H-P. By letters dated September 18, 2012, and September 17, 2013, SMRD indicated that Luminant vegetative ground-cover and productivity data indicated that revegetation within pastureland LMU 09-H-P exceeded 90% of the approved success standards during the 2011 and 2012 growing seasons, respectively.

- k. Luminant lists fish and wildlife habitat LMU 09-H-H and forestry LMU 09-H-F in Tables IV.A.4-2 and 3, respectively. These LMUs are partially contained within each of the two parcels. Luminant also lists the date of the SMRD letter (May 8, 2015) transmitting Staff's evaluation of revegetation-success data for these LMUs. By letter dated May 8, 2015, SMRD indicated that the data for fish and wildlife habitat LMU 09-H-H and forestry LMU 09-H-F indicated that vegetative ground cover and woody-plant stocking within these LMUs exceeded 90% of the approved success standards during the 2014 growing season, as required at §§12.313(a)(2) and 12.395(a)(2) prior to Phase II and III release of reclamation liability.
17. Luminant has demonstrated groundwater quantity and quality have been protected as required for Phase III release of the subject acreage. Surface mining activities were conducted according to Luminant's reclamation plan, which was designed to conduct operations to meet the requirements of §12.348. Soils and overburden materials were handled and surface-water runoff controlled to minimize acidic, toxic, or other harmful infiltration to groundwater systems. Groundwater quantity has been protected by restoring approximate premining recharge capacity of the reclaimed area as a whole. Appropriate monitoring has occurred in accordance with the approved plan, and monitoring results indicate that groundwater resources have been protected. Staff summarized that the groundwater hydrologic balance in the areas proposed for Phase III release has been adequately protected in accordance with regulatory requirements.
- a. Staff noted in its initial TA that Luminant had not yet effected appropriate disposition of long-term groundwater monitoring (LTGM) wells H-5-OBR-06 and H-19-OB-06; therefore, while Staff supported a finding that the ground-water hydrologic balance in the vicinity of the proposed Phase III release areas has been protected, it could not as yet recommend Phase-III release of Parcel No. 2 containing these LTGM wells. In Supplement No. 1, Luminant indicated that LTGM wells H-5-OBR-06 and H-19-OB-06 were located within the proposed Phase III release area and that these wells would remain in place for future data acquisition as part of the mine's LTGM plan. Luminant further indicated that it had submitted a transfer request for wells H-5-OBR-06 and H-19-OB-06 and received approval of the SMRD Director by letter dated April 25, 2017.

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- b. Staff indicated that Luminant incorrectly stated in Section V.A. of the Application that monitoring well H-14-UB-06 is included in the requested release area. According to Staff, the well is actually located approximately 1.25 miles north of well H-5-OBR-06, outside of the release area. [§12.333].
 - c. Groundwater monitoring for the proposed release area has been performed in accordance with provisions of the approved mining permit. The Tyler Inspection and Enforcement (I&E) Staff has reviewed the LTGM records submitted by Luminant on a quarterly basis since 1985. Further evaluation of the LTGM data was performed by the SMRD Applications and Permits Section (A&P) Staff. [§12.348].
18. Luminant has adequately demonstrated that surface-water quantity and quality protection requirements for Phase III release from reclamation obligations have been met. The 418.0 acres requested for release from Phase III requirements meet the surface-water protection requirements of §12.349, as shown by an examination of discharges to receiving streams. The surface-water hydrologic balance in the areas proposed for Phase III release has been adequately protected in accordance with regulatory requirements.
 - a. In its initial TA, Staff indicated that it did not recommend Phase III release from reclamation obligations for Parcel Nos. 1 and 2 citing the following reasons:
 - (1) An explanation for the discrepancy in watershed size for long-term surface-water monitoring (LTSM) Station HSW-W2, and that a complete depiction of the watershed for LTSM Station HSW-W1 needed to be provided, and that these corrected watershed maps needed to be signed and sealed by a professional engineer or professional geoscientist.
 - (2) An evaluation and comparison of long-term surface-water quality data to baseline information and State and federal effluent standards needed to be provided in accordance with Commission Advisory Notice AD-BO-312.
 - (3) An adequate long-term surface-water quantity analysis with a comparison of the disturbed station to the PHC determination, baseline data and undisturbed station needed to be provided as described in Commission Advisory Notice AD-BO-312.VI. This requested surface-water quantity analysis needed to include consideration of Luminant's management of the water levels between storm events at the BR-22 and BR-23 Permanent Impoundments, and also any potential effects to TCEQ Water Right Permit No. 5850.

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- b. By letter dated January 23, 2018, Luminant submitted Supplement No. 1 in which it provided responses to Staff's surface-water and groundwater concerns noted in the initial TA. These responses were contained in a revised surface-water and groundwater evaluation report, which included several attachments, tables, and revised Plate 1, and which was signed and sealed by Keith A. Wheeler, P.G., a professional geoscientist licensed in the State of Texas. Staff deemed Luminant's responses sufficient; however, in its review of Supplement No. 1 set forth in TA Addendum No. 1, in addition to noting mapping-error concerns and other impediments for release of both Phase II and III reclamation obligations, Staff identified several new issues as a result of the submitted information:
 - (1) Staff noted that it had previously recommended Phase II release from reclamation obligations for the proposed 418.0 acres in its initial TA, but that in Luminant's Supplement No. 1, Luminant provided an evaluation of individual pond data to address Phase II requirements and, upon review, Staff noted impediments to Phase II release from reclamation obligations for Parcel Nos. 1 and 2, as follows:
 - (a) Staff noted that on Plate 1 Luminant depicted that approximately 93.4 acres of the 418.0 acres proposed for Phase II release drained to Pond H-4. Further, although Luminant notified the Commission by letter dated August 3, 2015, of the deactivation of Outfall 103 (Ponds H-1, H-4 and H-5), it indicated in that letter that the ponds were located in areas released from Phase II reclamation liability; however, the entire watershed of Pond H-4 had not as yet received Phase II release from reclamation obligations. Staff identified that as shown on Plate 1, portions of the Pond H-4 watershed included Parcel Nos. 1 and 2 requested in this Application for release. According to requirements on page 14 of Luminant's TPDES permit, discharges from retention ponds needed to be monitored until the performance bond (Phase II) was released. It appeared that the last data reported for Pond H-4 in Appendix CI of the supplement was for a water sample taken on July 10, 2015, Luminant had failed to continue monitoring Pond H-4 in accordance with its approved TPDES permit and reporting these data to the Commission as well.
 - (b) Staff also noted that Luminant indicates that total suspended matter (TSM) measurements for Ponds H-3 and H-4 have been below 0.1 mL/L for the respective periods of record. However, Staff's reading of the Luminant's TPDES Permit No. 02697 indicates that the permit

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requires monitoring of settleable solids (SS), not TSM. Therefore, Staff requested that Luminant provide a correlation between TSM and SS measurements.

- (2) In TA Addendum No. 1, Staff did not recommend Phase III release from reclamation obligations for Parcel Nos. 1 and 2 for the reasons summarized below:
 - (a) Staff identified that the watershed depicted on revised Plate 1 was out of date. By letter dated June 22, 2018, Luminant submitted Revision No. 43 independently from this docket to update the watershed for LTSM Station HSW-W2 depicted on Plate 146(d)-3 in Permit No. 34F, correcting a mapping error. Revision No. 43 was administratively approved by the SMRD Director by letter dated September 13, 2018. Also in this approval letter, Staff indicated that it concurred with Luminant's finding that the watersheds matched what is shown on Plate 1 in the Application.
 - (b) Staff noted that revised Application Plate 1 was sealed by Mr. Keith A. Wheeler on January 22, 2018, but that a signature was not provided; that the watershed for LTSM Station HSW-W1 depicted on Plate 1 did not match the watershed depicted on Plate 146(d)-3 in Permit No. 34F; that Luminant needed to indicate whether Plate 1 in Supplement No. 1 superseded Plates III.B.3-1 and III.B.3-2 in the initial application; and that some of the requested release areas depicted on Application Plate I had not received Phase III release from reclamation obligations according to Plate 142-1, *Bond Map*, which was approved administratively on July 25, 2017, in Revision No. 32.
 - (c) Staff noted that the relocation of LTSM Station HSW-W1 from its original location on an unnamed tributary of Lake Monticello to its current location on Blundell Creek was approved on July 28, 2000. However, there apparently was a large discrepancy in watershed size between the previous and current locations of LTSM Station HSW-W1. Despite this large discrepancy, Luminant combined water-quality and water-quantity data collected at both monitoring locations into a single data set in Appendix D and used this combined set to calculate a range, average and median for each of the parameters. Staff noted that Luminant did not provide an explanation for the efficacy of combining LTSM data from two different watersheds into a single data set. In addition, Staff

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indicated that it considered that these data, being from two different watersheds, should be separated and evaluated based on the two distinct station locations.

- (d) The period of record for the LTSM data provided in Appendix D and used in the surface-water portion of the assessment is May 30, 1997, to December 29, 2016. However, the PHC determination in Permit No. 34F includes an assessment of a longer period of record—LTSM data collected at LTSM Stations HSW-W1 and HSW-W2 from May 6, 1991, to October 23, 1996. Staff requested that Luminant provide an explanation for the omission in its surface-water evaluation of these earlier data.
- (e) The LTSM plan described in Table 146(d)-11 of Permit No. 34F requires that selenium (Se) and acidity be monitored as part of the monitoring plan. Although Luminant had been submitting data for these two parameters in its quarterly monitoring submittals, evaluations of the LTSM data for Se and acidity were not provided in its surface-water assessment in the Application. Staff requested that Luminant provide these LTSM data and evaluations.
- (f) Although Luminant indicated that it compared monitoring data from LTSM Station HSW-W2 to baseline Station SW-3 located on an unnamed tributary of Tankersley Creek, Table 5 in Supplement No. 1 included two baseline stations identified as “Station SW-3,” each with a different watershed size (917 and 583 acres, respectively). Staff noted that Luminant needed to identify which baseline Station SW-3 was used in its evaluation, justify its use, provide the baseline data, and depict the station on Plate 1, *Long-Term Monitoring Well and Surface Water Station Locations*.
- (g) Staff noted that the watershed for disturbed-flow LTSM Station HSW-W2 was reclaimed and had obtained Phase III release from reclamation obligations prior to the installation of the LTSM station. In this regard, Staff requested that Luminant provide an explanation for the thus unexpected upward trends in TSS and total Fe concentrations observed at LTSM Station HSW-W2.
- (h) Staff noted that Luminant needed to provide an explanation for various anomalies in flow measurements (i.e., instances where flow measurements do not correlate well with precipitation data) identified by Staff in the rainfall data and flow measurements.

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- (i) Staff identified that in its evaluation of the average and median flows for LTSM Stations HSW-W1 and HSW-W2 and 19 baseline stations, Luminant did not adjust for the increase in the watershed size of LTSM Station HSW-W1 after its relocation and the wide range in watershed size of the 19 baseline stations. The relocation of LTSM Station HSW-W1, coupled with the wide range in watershed size and watershed characteristics for these 19 baseline stations, needs to be addressed in the evaluation of surface-water quantity, particularly when combining data sets and performing comparisons.
- (j) The 19 watersheds referenced by Luminant are associated with areas that were previously disturbed by mining activities or were proposed to be disturbed during the current permit term. Luminant's analysis of the 19 watersheds addressed in the PHC determination in Permit No. 34F did not account for the differences in watershed size between LTSM Stations HSW-W1 and HSW-W2. Staff noted that the differences in watershed size and watershed characteristics needed to be considered when comparing the flow measurements of both LTSM stations.
- (k) Staff noted that at least five years of flow data had been collected since Staff had last conducted an independent analysis for a Phase I, II and III release at the Monticello Winfield Mine (1,620.2-acre application (Docket No. C14- 0002-SC-34-F). Staff indicated that if Luminant desired to take a similar approach to the statistical analysis documented in Staff's TA dated September 10, 2014, for that previous docket, then it needed to update the flow data sets in Supplement No. 1 of the Application and then perform a new water-quantity analysis using the same statistical methodologies.
- (l) Staff indicated that for Ponds H-3 and H-4, Luminant combined into single data sets both calculated TDS concentrations and concentrations obtained from laboratory tests. Staff iterated its belief that Luminant needed to segregate the calculated TDS concentrations from concentrations obtained from laboratory tests into two data sets and reanalyze the data sets accordingly.
- (m) Staff noted that the LTSM plan approved in Permit No. 34F requires the monitoring of final discharge ponds to support Phase III release from reclamation obligations. Monitoring of Pond H-4 as a final discharge pond stopped in September 2015, even though the

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entirety of the watershed of the pond had not been granted Phase III release. Staff appeared to be requesting that Luminant provide an explanation for why monitoring of the pond as a final discharge pond did not continue until all bonded areas within the watershed had received Phase III release from reclamation obligations.

- (3) In TA Addendum No. 1, Staff also provided the following recommendations that could be addressed by Luminant in a then yet to be filed Supplement No. 2 to the Application.
 - (a) Staff noted that if Luminant updated the flow data (through 2018) in the Application for Phase III release from reclamation liability, then it needed to consider how it would incorporate instantaneous flow measurements (staff gauges) into a water-quantity evaluation that is based on daily average flows (continuous recorders). Staff noted that this issue could be addressed in a future Phase III release application.
 - (b) Field markers must remain at all corners and angle points to distinguish these released parcels from active mine areas.
- c. By letter dated October 7, 2019, Luminant provided Supplement No. 2. In this second supplement, Luminant included a further revised surface-water and groundwater evaluation report in response to Phases II and III surface-water issues noted in Staff's December 21, 2018 TA Addendum No. 1.
 - (1) The revised evaluation report contained a second revised Plate 1, signed and sealed on September 16, 2019, by Mr. Keith A. Wheeler, P.G. On this revised plate is depicted the watershed of Station HSW-W1 as it appears in the approved permit. Luminant further indicated on page 1 of the errata in Supplement No. 2 that Plate 1 in the supplement did not supersede Plates III.B.3-1 and III.B.3-2 of the initial Application but instead was provided to support information in Supplement No. 1 (January 2018) by resolving the above-noted mapping errors.
 - (2) Luminant also indicated in Supplement No. 2 that the H-Area bonding status as depicted on revised Plate 1 agrees with the area of H-area bonding depicted on Plate 142-1, *Bond Map*, approved administratively on July 25, 2017, in Revision No. 32. Staff concurred with this assessment.
 - (3) Staff noted that monitoring of Pond H-4 as a final discharge pond stopped

In September 2015, even though 93.4 acres of the watershed of the pond has not been granted Phase III release, contrary to conditions of Luminant's TPDES permit. In response to this concern, Luminant indicated that Pond H-4 was incorrectly deactivated with the TCEQ on August 3, 2015. In a February 22, 2019, meeting, Staff indicated that Luminant needed to resume monthly sampling of Pond H-4 until such time that release from reclamation liability for the remaining 93.4 disturbed acres was achieved. Luminant provided data for Pond H-4 for the period of record from February 28, 2019, through September 30, 2019. TDS concentrations in Pond H-4 have ranged from 92 to 247 mg/L, with an average TDS concentration of 155 mg/L. The TDS concentration has been relatively stable in the pond throughout the recent period of record and has never exceeded the 500 mg/L stream-segment criterion. Available data indicate that discharge from final discharge Pond H-4 has complied with the water-quality standards outlined in TPDES Permit No. 2697 and the approved permit during the period of record from February 28-September 30, 2019, when Luminant resumed monitoring Pond H-4, and throughout the remaining period of record. This assessment has resolved Staff's concerns.

- (4) Staff had noted that Luminant had indicated that TSM values in Ponds H-3 and H-4 had been below 0.1 mL/L for the periods of record. Because TPDES Permit No. 02697 requires the monitoring of settleable solids (SS) and not TSM, which is the commonly accepted acronym for total suspended matter. Staff therefore requested that Luminant provide clarification and/or a correlation between TSM and SS. Luminant indicated that it uses the acronym TSM for "total settleable material" in its TPDES reporting rather than more proper term, settleable solids (SS), and considered the two terms to be equivalent parameters. In that the measured parameter was determined using an Imhoff cone and reported in mL/L, Staff was able to concur with this ultimate assessment.
- (5) Staff noted in TA Addendum No. 1 that Luminant had combined calculated TDS concentrations with concentrations obtained from laboratory tests into single data sets for Ponds H-3 and H-4, and that these TDS concentration data sets needed to be segregated and reanalyzed accordingly. In Supplement No. 2, Luminant revised Appendix C (quarterly LTSM chemistry data) to indicate which TDS concentration values are calculated based on electrical conductivity (EC) measurements and which are determined from laboratory analysis. Based on an assessment of these two data sets, it was determined that TDS concentrations calculated from EC measurements are largely

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similar to laboratory EC values (within $\pm 10\%$). Despite this correlation, Luminant indicates that, effective January 2015, it intends to provide laboratory analyses of TDS concentrations as required by the LTSM plan contained in the approved permit.

- (6) In TA Addendum No. 1, Staff noted that LTSM Station HSW-W1 was relocated in 2000, which indicates that two different watersheds have been sampled for this station. Staff also noted that Luminant needed to account for the difference in size and relocation of LTSM Station HSW-1 in its evaluation of the LTSM data. In its initial submittal, Luminant combined the monitoring data from these two watersheds into a single data set. Staff observed that these data sets needed to be separated and evaluated independently. In response to this concern, Luminant separated the LTSM Station HSW-W1 data into sets reflecting periods before and after its relocation and provided a separate statistical analysis for each (Appendix D). Luminant acknowledged that were the watershed size of Station HSW-W1 increased from 382 acres to 1,202 acres, the flow measurements would be different; however, because flow measurements at Station HSW-W1 began only one year before the relocation and all remaining flow measurements were from the relocated station, there is insufficient data to ascertain the magnitude of the difference. Luminant also indicates that the increase in watershed size has not affected water quality. Staff summarized the station data as follows:

LTSM Stations and Baseline Monitoring Station Data						
Parameters	Undisturbed Station HSW-W1 Before Relocation (1991-2000)	Undisturbed Station HSW-W1 After Relocation (2000-2017)	Disturbed Station HSW-W2 (1991-2017)	Baseline Station SW-3 (1991-1992)	TCEQ Stream Segment No. 0404 Criteria	TCEQ Stream Segment No. 0408 Criteria
pH (s.u.) range (average)	6.2-7.5 (6.8)	6.2-8.5 (6.8)	5.4-7.9 (6.9)	5.0-7.4 (6.2)	6.0-8.5	6.5-9.0
TDS (mg/L) range (average)	42.0-1825 (185)	46.0-1076 (260)	60.0-722.0 (276.0)	78.0-292.0 (144.0)	500	150*
TSS (mg/L) range (average)	2.0-109.0 (24.0)	1.0-166.0 (20.0)	1.0-88.0 (15.0)	1.0-258.0 (60)	N/A	N/A
total Fe (mg/L) range (average)	0.28-4.26 (1.3)	0.03-5.18 (1.39)	0.01-7.6 (1.1)	0.79-9.19 (2.1)	N/A	N/A

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LTSM Stations and Baseline Monitoring Station Data						
Parameters	Undisturbed Station HSW-W1 Before Relocation (1991-2000)	Undisturbed Station HSW-W1 After Relocation (2000-2017)	Disturbed Station HSW-W2 (1991-2017)	Baseline Station SW-3 (1991-1992)	TCEQ Stream Segment No. 0404 Criteria	TCEQ Stream Segment No. 0408 Criteria
total Mn (mg/L) range (average)	<0.05-0.3 (0.1)	0.01-2.95 (0.52)	0.01-2.95 (0.52)	0.05-.1.8 (0.05)	N/A	N/A
Acidity **(mg/L) range (average)	N/A	<0.01-2.00 (2.00)	<0.01-4.00 (2.67)	N/A	N/A	N/A
Selenium **(mg/L) range (average)	N/A	<0.01-0.01 (0.01)	<0.01-0.01 (0.01)	N/A	N/A	N/A
Flow (cfs) range (average)	0.06-0.1* (0.09)	0-130.9* (0.09)	0.0-13.3* (1.4)	0.0-5.7* (1.4)	N/A	N/A

*Staff converted flow from GPM to cfs

**Monitored beginning 3/35/2014 with the approval of Permit No. 34F

- (7) Staff noted that Luminant needed to provide LTSM data for the period of record from 1991 through 1996. Staff also noted that Luminant needed to submit LTSM selenium and acidity data per its approved LTSM monitoring plan. In Supplement No. 2, Luminant provided these necessary data (Appendix D), as summarized in Finding of Fact No. 18.c.(6), *supra*.
- (8) Staff noted that Luminant's trend graphs in Appendix D show an upward trend in TSS and total Fe concentrations at LTSM Station HSW-W2, even though the watershed for this station was reclaimed and released from reclamation obligations prior to installation of the LTSM station, and requested further explanation. Luminant indicated in Supplement No. 2 that the upward trend of the data is strongly dependent on the high TSS concentrations that occurred in 2009 and 2010. During this period, the construction of the Pond BR-22 dam, located approximately 800 ft upstream by the current landowner, likely produced the resultant increased Fe and TSS concentrations. Further evaluation of the trend graphs and data contained in Appendix D indicates that Fe and TSS concentrations at disturbed LTSM Station HSW-W2 since 2010 have been stable and have remained nearly the same as those at undisturbed Station HSW-W1. This explanation satisfied Staff's concern.
- (9) In TA Addendum No. 1, Staff indicated that Luminant needed to provide

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an explanation for anomalous flow measurements (i.e., instances where flow measurements do not correlate well with precipitation data). In Supplement No. 2, Luminant provided Figure No. 2, in which it provided a time-series comparison of flow at LTSM Station HSW-W2 vs. rainfall from January 2007 through November 2017. Although Staff noted some discrepancies in the data over the analyzed period, which Luminant indicates can be attributed to equipment malfunction, erroneous readings from vegetation, beaver activities, and power outages, Staff found that the response of flow to rainfall was mostly as expected. When there was sufficient rainfall to overcome low soil moisture and pond freeboard, flow occurred. Likewise, following a dry period it typically required more rainfall to produce a flow response. During wet periods, flow response was more immediate. Also as expected, baseline flow extended into drier periods as a result of ponds continuing for a time to release excess water. Staff agreed with this assessment.

- (10) Staff requested that Luminant clarify which of two baseline monitoring stations having the same name, SW-3, it evaluated in its surface-water quality and quantity analysis. Luminant provided clarification that the monitoring station that it used in its comparison was the station located approximately 1.5 miles northeast of Station HSW-W2 and just north of Tankersley Lake, and that it has renamed this station as Station "SW-3 (B-2)." The location was also shown on Luminant Figure No. 1 in Supplement No. 2.
- (11) In TA Addendum No. 1, Staff indicated that Luminant's analysis did not address the difference in watershed size between LTSM Stations HSW-W1 and HSW-W2, nor did it address the wide range in watershed size of the 19 baseline stations, and the significant increase in the watershed size of LTSM Station HSW-W1 after its relocation. In response to these concerns, Luminant provided a technical memorandum (Attachment 1) dated March 5, 2019, which had previously been submitted as supporting documentation for a different docket (Docket No. C15-0004-SC-34-F, application for Phases I-III release of reclamation liability on 929.4 acres). Both Luminant and Staff conducted independent statistical evaluations of the flow data for LTSM Stations HSW-W1 and HSW-W2 (and the 19 baseline stations). Staff confirmed to its satisfaction that LTSM Stations HSW-W1 and HSW-W2 do not have statistically different median flows.
- (12) Staff's overall conclusion based on its evaluation of the analyses provided in the Application, as supplemented, was that the surface-water

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hydrologic balance has been protected as required at §12.349. Staff recommended release of reclamation liability obligations on the 418.0 acres requested for Phase III release.

19. No rills or gullies were present within the areas requested for Phase II and III release that would require repair. The areas have been stabilized to reduce the potential for contributing suspended solids to streamflow. [§12.344].
20. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.
21. Pursuant to §12.313(a)(3), the Commission may release the requested portion of the bond attributable to the subject 418.0 acres upon a determination that reclamation has been successfully completed in accordance with the terms of the approved permit and the requirements of the Act and the Regulations. As a result of being granted Phase II and III release of reclamation obligations on this area, Luminant is eligible to reduce the bond amount for Permit No. 34F. The last bond-map update and reclamation cost estimate ("RCE") were approved administratively by letter dated July 25, 2017 (Revision No. 32). Staff states that its technical evaluation of Revision No. 44, approved by letter dated June 11, 2019, indicated that Luminant must provide a revised RCE no later than October 28, 2019. A revised RCE was not provided to the Commission by the October 28, 2019 deadline. By letter dated November 6, 2019, Staff's RCE of \$126,109,272 was adopted as the minimum bond amount necessary for completion of mine reclamation in the event of forfeiture. No reduction of the \$975,000,000 blanket collateral bond approved by Order dated September 27, 2016, is requested by Luminant in the Application [Finding of Fact No. 3, *supra*]. If the Application is approved by the Commission as proposed, then Luminant will be eligible to reduce its performance bond obligations by \$391,289.80, as shown by Staff's Table E (Staff's TA Addendum No. 2, as Revised Text). The Commission considers this specified reduction amount to only be an estimate provided for illustration purposes. The actual amount of any eligible reduction would be calculated based on the costs for reclamation at the time that Luminant requests an actual bond reduction, thereby ensuring that the proposed bond amount always remains sufficient to cover the cost of outstanding reclamation work. Additionally, since the Commission is not required under the Act or the Regulations to determine an eligible bond reduction amount when approving an application for release, this Order prescribes that Luminant is eligible to reduce the amount of bond attributable to the 418.0 acres granted Phase III release, but does not specify the amount of the reduction.
22. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.

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23. 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. No exceptions to the proposed order were filed.
24. Open meeting notice has been posted for Commission consideration of this Application in accordance with Tex. Gov't Code §551.048.

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. A public hearing on the request is not warranted.
3. Luminant has complied with all applicable provisions of the Act and the Regulations regarding notice for Commission jurisdiction to allow consideration of the matter.
4. Luminant has complied with all applicable provisions of the Act and the Regulations for the release of Phase II and III reclamation obligations for 418.0 acres within the Monticello Winfield Mine permit area.
5. The Commission may approve a release of Phase II and III reclamation obligations for 418.0 acres as set out in the above Findings of Fact and Conclusions of Law.
6. Luminant is eligible to reduce the bond for the permit by the amount that is attributable to the subject aggregate 418.0 acres in future bond adjustments.

IT IS THEREFORE ORDERED that the above Findings of Fact and Conclusions of Law are adopted;

IT IS FURTHER ORDERED that release of Phase II and III reclamation obligations for 418.0 acres as set forth in the above Findings of Fact are hereby approved;

IT IS FURTHER ORDERED Luminant is eligible to reduce the amount of bond for the permit by the amount that is attributable to the 418.0 acres granted full release in this Order;

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 other reclamation areas in accordance with this Order;

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IT IS FURTHER ORDERED that the current bond remains in effect according to its terms until otherwise ordered 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 is filed by any party at interest, then 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 September 22, 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

ATTEST:

DocuSigned by:

Callie Farnas

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Secretary
Railroad Commission of Texas

