

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

SMRD DOCKET No. C13-0008-SC-32-F

**APPLICATION OF TEXAS WESTMORELAND COAL COMPANY FOR MULTI-PHASE
RELEASE OF RECLAMATION OBLIGATIONS FOR AN AGGREGATE 920.7 ACRES
WITHIN PERMIT NO. 32F**

**ORDER APPROVING MULTI-PHASE RELEASE
OF RECLAMATION OBLIGATIONS**

Statement of the Case

Texas Westmoreland Coal Company (TWCC), applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for Phase I, Phase II and III, and Phase III releases of reclamation obligations for 920.7 acres in the aggregate within Permit No. 32F, Jewett Mine, Leon, Limestone, and Freestone 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. 2014), and “Coal Mining Regulations” Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE Ch. 12 (West 2014).

The currently accepted reclamation performance bonds for Permit No. 32F are total \$71,000,000 for Permit No. 32F: a self-bond with third-party guarantee by NRG Energy, Inc. in the amount of \$57,500,000 and a surety bond issued by Liberty Mutual Insurance Company in the amount of \$13,500,000 accepted by Commission Order dated March 22, 2011 and June 12, 2012, respectively.

TWCC requests the following releases: Phase I reclamation obligations for backfilling, regrading, and drainage control for 436.8 acres, Phase II release for the establishment of revegetation and for sediment control for 20.7 acres and Phase III release for the extended responsibility period for revegetation and for all reclamation activities related to surface water quality and quantity and groundwater protection for this acreage, as well as Phase III release for 463.2 acres. No comments or requests for hearing were filed following public notice. The only parties to the proceeding are TWCC and the Commission’s Surface Mining and Reclamation Division (Staff). There remain no outstanding issues between the parties. Based on information provided by TWCC, as supplemented, and its

inspection of the area, the Staff recommends release of the acreage requested.

The Commission approves the release of reclamation obligations as recommended by Staff. TWCC does not request adjustment to the approved reclamation bonds at this time. An eligible bond reduction amount of \$417,038.93 may be determined.

FINDINGS OF FACT

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

1. By letter dated September 28, 2012, Texas Westmoreland Coal Company (TWCC) filed its application for a multi-phase release of reclamation obligations in several mine areas within the permit area of the Jewett Mine, Permit No. 32F, located in portions of Leon, Limestone, and Freestone Counties. The permit area contains approximately 21,549 acres. TWCC conducted mining operations on the acreage between 1986 and 2005.
2. The application is made pursuant to Texas Surface Coal Mining and Reclamation Act, TEX. ADMIN. CODE ANN. CH. 134 (Vernon Supp. 2014) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 TEX. ADMIN. CODE CH. 12 (West 2014). No filing fee is required. The application was properly certified in accordance with §12.312(a)(3).
3. TWCC does not request a reduction in the amount of the approved reclamation bond instruments. The existing reclamation bonds for the permit area total \$71,000,000. The currently accepted reclamation performance bonds for Permit No. 32F are a self-bond with third-party guarantee by NRG Energy, Inc. in the amount of \$57,500,000 and a surety bond issued by Liberty Mutual Insurance Company in the amount of \$13,500,000 accepted by Commission Order dated March 22, 2011 and June 12, 2012, respectively.
4. The application was supplemented by letters dated February 25, 2014 to provide a revised

proposed notice and tract information, on March 26, 2014 containing additional information to provide water quality monitoring data for Pond 017, and on April 15 and April 24, 2013 with proof of publication of notice. Publication occurred once each week for four consecutive weeks in *The Groesbeck Journal* on March 7, 14, 21, and 28, 2013. Publication also occurred in the *Freestone County Times* on March 5, 12, 19, and 26, 2013. In addition, notice was published in *The Jewett Messenger* on March 13, 20, and 27, 2013. Notice was to be published on April 3, 2013 but was not, and on April 24, 2013, notice was published. This publication is sufficient. The three newspapers are papers of general circulation in the area of the proposed operations. The notice of application contains all information required by the Act and Regulations for notice of application for bond release applications. TWCC submitted affidavits of publication with clippings. The published notice is adequate notification of the request for release. The notice includes the elements required by §134.129 of the Act and §12.312(a)(2) of the Regulations: the name of the permittee, the precise location of the land affected, the total number of acres, permit number at the time of application and date approved, the amount of bond filed, 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 concerning the applicant, the location and boundaries of the permit area, the availability of the application for inspection and address to which comments should be sent.

5. Copies of the application were filed for public review at the main office of the Railroad Commission of Texas at 1701 North Congress Avenue, William B. Travis Building, Austin, Texas and in the offices of the Leon, Limestone, and Freestone County Clerks.
6. TWCC sent notice to owners of interests in the areas requested for release and adjacent lands and to local governmental bodies, planning agencies, sewage and water treatment authorities and water companies in the locality as required by §12.312(a)(2). TWCC mailed notice to the County Judges and Commissioners' Courts of Freestone, Leon, and Limestone Counties, the Environmental Protection Agency, the Texas Commission on Environmental Quality, the Texas

Department of Transportation, local offices of the Natural Resources Conservation Service in Centerville, Groesbeck, and Fairfield, Texas, Texas General Land Office, Donie Water Works, Concord-Robbins Water System, and the Brazos River Authority. The areas requested for release are not located within the territorial boundaries of any municipality. The Hearings Division received copies of the notification letters dated April 9, 2013 by letter dated April 15, 2013 from TWCC.

7. The application was declared administratively complete by Staff's letter dated April 30, 2013 with a notification that the Staff's technical analysis would be filed separately. The technical analysis (TA) was filed with the Hearings Division on March 13, 2014. By letter dated March 27, 2014 Staff filed the correct copies of letters dated June 4, 2013 to the county judges in that incorrect copies were sent by letter from Staff dated March 13, 2014. The TA was amended by letter dated June 10, 2014 after receipt of the pond data submitted by TWCC by letter dated March 26, 2014 and proof of publication of notice. On June 12, 2014, Staff filed a corrected copy of Map 6 that had been sent with the amended TA.
8. The Staff provided notification of the application by certified letters dated June 4, 2013 to the County Judges of Leon, Limestone, and Freestone Counties as required by §134.133 of the Act; these dates are at least 31 days prior to the date of consideration of the docket by the Commission. Pursuant to §12.312(b) of the Regulations, Staff notified owners of interests in lands and lessees of the application for release of the date and time of Staff's field inspection by letters dated October 8, 2012. 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 on October 30, 2012. The Division also sent notice to the Office of Surface Mining Reclamation and Enforcement (OSM) (Tulsa, Oklahoma office), however, no OSM representative attended. Ten landowners/owners of other interests, two Commission inspectors, six mine personnel, and one consultant attended the inspection. No concerns were expressed by landowners at the inspection. No adverse comments or written objections were filed regarding

the request for release. No requests for hearing were filed pursuant to §12.313(d).

9. The inspection occurred on October 30, 2012. The areas proposed for release are detailed in Staff's Technical Analysis (TA) and Field Inspection Report (Attachment III to Staff's TA) filed with the Hearings Division by letter dated March 13, 2014. Figures and photographs of the proposed release areas and structures in the Staff Inspection Report and Evaluation, as amended, provide depictions of the areas included in the application and the specific releases proposed. Photographs from the inspection are included in Appendix IV of the Inspection Report and provide support for the application and the inspection report.
10. The application included ownership and tract information for owners of interests in the areas proposed for release. There are approximately 42 tracts within the areas requested for release. NRG Texas Power LLC owns the surface and coal on 19 tracts and the surface of three tracts. TWCC owns the surface and coal on five tracts. Approximately 80 individuals, trusts, or businesses own various interests in the remaining tracts and adjoining tracts, including the Department of Transportation and Leon County.
11. Land uses within the areas requested for release are pastureland (99.2%; 913.4 acres) and developed water resources (0.8%; 7.3 acres).
12. Parcels P-2, P-7, and P-8 as labeled on Staff's Maps 1 and 6 are requested for Phase I release. The areas comprise 436.8 acres. The Phase I release areas and structures located within these areas are shown on Figures 1 and 2 of the Photograph Location Maps included in Appendix IV of Attachment III (Staff's inspection report). These areas have met Phase I requirements for backfilling, regrading and drainage control as required by §12.313(a)(1) of the Regulations.
 - (a). The lands requested for Phase I release are stable with no active erosion evident. Backfilling, regrading, and drainage control have been accomplished on these areas and vegetation has been planted. Vegetation has stabilized the areas around the two

approved permanent impoundments, RP-A8 and RP-A9 (Photographs 3 and 1, respectively, Appendix IV). Three approved drop structures are also located within these areas requested for Phase I release, A.7.C.G.R.R. (concrete-grouted rock riprap), A.8.C.G.R.R., and DS-E6 (Photographs 4, 2, and 10, respectively) and are stable. The areas requested for Phase I release drain to approved Sedimentation Ponds, 029, 030, and 031.

- (b). Final grading occurred between 1997 and 2007. All highwalls were eliminated, and the areas were regraded to approximate original contour. Suitable materials have been placed on areas surrounding the pond so that non-acid-forming and non-toxic-forming substitute materials were placed to a depth of at least four feet over regraded soil. No cut-and-fill terraces have been constructed (§12.385).
- (c). Soil testing was completed on the areas requested for release with the exception of the developed water resources. The soil grids, sample dates, and approval dates are listed in Section 3 of the application, Table 3.2. Sample dates range from 1993 – 2012. The soil data reflect that the areas are free of acid-forming and toxic-forming materials. No prime farmland, for which specific reclamation requirements apply, is located within the areas requested for release.
- (d). The areas requested for Phase I release are made up of 434.1 acres of pastureland and 2.7 acres of developed water resources. The areas are depicted on Application Exhibit 142-LU, Sheets 1 and 2, and Staff Maps 1 and 6.
- (e). No roads or other structures are located within the areas requested for Phase I release. Ground cover surrounding the ponds is sufficient to control erosion.
- (f). No silt dams are present within the area proposed for Phase I bond release. (§12.344)

- (g). No areas are approved for the disposal of non-coal waste within the area proposed for Phase I bond release. (§12.375)
13. The acreage requested for Phase II release was approved for Phase I release from reclamation obligations by Commission Order dated June 9, 2010. The land uses within the area requested for Phase II release are pastureland and developed water resources. The 20.7 acres requested for Phase II (and III) release have met Phase II requirements for revegetation and for quality of discharges from the area requested for Phase II release.
- (a). Pond 017 (3.5 acres of the 20.7 acres) located within the area requested for Phase II release has been approved as a permanent impoundment. Pond 017 Access Road is also located in the Phase II release area. The remaining area within the Phase II release area is pastureland (Application Exhibit 142-LU, Sheet 1 and Staff Map 1, Parcel P-1).
 - (b). Surface water monitoring has been conducted in accordance with the requirements of the permit. Phase II sediment control requirements are being met for the area as required by §12.313(a)(2) of the Regulations based upon monitoring of Pond 017 receiving drainage from the areas requested for Phase II release. The areas requested for Phase II release are not contributing excess suspended solids to runoff or streamflow outside the permit area in excess of water quality permit requirements or in concentrations that would adversely affect streamflow outside the permit area [See Finding of Fact No. 14(d)].
 - (c). Soil fertility data for the land management unit A2-00 was submitted and was approved by the Surface Mining and Reclamation Division. Vegetation has been established within the pastureland area (17.2 acres) requested for Phase II release. Vegetation was planted within this area and consisted of various approved pastureland grasses including Switchgrass, Indiangrass, Kleingrass, Wilman lovegrass, Sideoats grama, Old World

bluestem, and Coastal bermudagrass. The vegetation within the pastureland area is healthy and self-sustaining (§§12.390 - 12.395). The acreage requested for release from Phase II revegetation requirements with a postmine land use of pastureland has met requirements for establishing revegetation. The Commission determined that vegetation met the ground cover requirements contained in its permit for compliance with §12.395(a)(2) and (b)(1), not less than 90% of the applicable success standards approved by the Commission for the permit. TWCC uses specific technical standards for various bunchgrasses and sodgrasses. Data submitted by TWCC and review by Staff indicate that the vegetation in the areas approved for Phase II release met or exceeded 90% of the technical standards for ground cover (Section 4, Application, page 4-2, and Staff's TA, page 6). Ground cover exceeded 90% of the technical standards during two evaluations (2004 and 2006) for sampled unit A2-00 as determined by letters dated July 15, 2005 and April 14, 2009 on two occasions. Ground cover was estimated at 100%. In addition, productivity standards were met. The area was placed into the Extended Responsibility Period (ERP) on November 7, 2000. Ground cover technical performance standards are not applicable to developed water resources land use; however, the area surrounding the pond has vegetation sufficient to control erosion; the area surrounding Pond 017 is sufficient to control erosion (Inspection Report and Photographs 11 and 12).

- (d). The land has been reclaimed and managed in accordance with the approved postmine land uses (§§12.147 and 12.399).
- (e). No portions of the area proposed for Phase II release of reclamation obligations were classified as prime farmland for which additional requirements apply.
- (f). Structures located within the area requested for Phase II release have been approved as permanent (Pond 017 and Pond 017 Access Road).

14. In addition to the 20.7 acres requested for Phase II and III releases of reclamation obligations, TWCC also requests Phase III release for 463.2 additional acres. The Commission approved Phase I release and Phase II releases of reclamation obligations for the 463.2 acres by Orders dated September 23, 2008 and May 11, 2010, respectively. The total acreage, 483.9 acres, has met Phase III requirements for completion of the ERP and for groundwater and surface water quality.
- (a). Ground cover and productivity standards have been met for the 17.2 acres of pastureland out of the 20.7 acres also requested for Phase III release [Finding of Fact No. 13(c)]. The 20.7-acre area was placed in the ERP effective November 7, 2000 and has completed the ERP. The 463.2 acres requested for Phase III release is made up of postmine land uses of pastureland (462.1 acres) and developed water resources (1.1 acres). Soil fertility data was approved for the 462.1 acres by letters dated January 6, 2010 and July 9, 2012. Ground cover and productivity requirements have been met for the land management units making up these pastureland areas. The 462.1 acres is within land management units C1-07P, C1-07NP, D1-07P, and D1-07NP. These were accepted into the ERP on October 1, 2007. Ground cover and productivity data for the 2009, 2010, and 2011 growing seasons were submitted, and by letter dated January 8, 2001, July 7, 2010, July 8, 2011, and August 30, 2012, the data were approved by Staff. Ground cover was between 96 – 100%. The 462.1 acres has completed the extended responsibility period of five years required by §12.313(a)(3). The pastureland areas have been reclaimed and managed in accordance with the approved postmine land uses (§§12.147 and 12.399).
- (b). The following structures are located in the areas requested for Phase III release: Pond 017 and its access road [as indicated in Finding of Fact No. 13(f)], and Pond RP-C3. These structures are stable and no maintenance or rehabilitation is required. One small-

area depression is located in the area requested for release, D1-07-DP-1, approved August 7, 2012 as meeting the requirements of §12.385(c) and the standards included in Advisory Notice EN-PS-385(c).

- (c). Staff inspection noted no issues with erosion in the areas requested for Phase III release. The Staff Inspection Report and photographs contained in Appendix IV to the Inspection Report reflect areas that are stable with no erosion evident.

- (d). Surface water monitoring of streams and ponds receiving drainage from the 483.9 acres has been conducted in accordance with the requirements of the permit. Based upon TWCC's hydrology consultant's report and review by Staff, the area is not contributing suspended solids to runoff in excess of the requirements of the Texas Commission on Environmental Quality (TCEQ) Texas Pollutant Discharge Elimination System (TPDES) discharge Permit No. 02653, nor to streamflow outside the permit area based upon water quality data submitted for final discharge ponds, permanent impoundments, and stream monitoring stations receiving drainage from the area [subparagraph (f), *infra*]. Discharges from the final discharge pond receiving runoff from the 20.7-acre area requested for Phase II and III release and the 463.2-acre requested for Phase III release, Pond 017, meet the requirements for discharges set out in TPDES Permit No. 02653 (Application and Supplement 1 including discharge data for settleable solids). Based on Staff's review of long-term pond data for Pond 017 for the period of record February 2003 – March 2011 for the minimum, maximum, and average cumulative pond water quality data for pH, total suspended solids (TSS), total iron (Fe), and total manganese (Mn), the average values meet the effluent limitations set out in TCEQ/Texas Pollutant Discharge Elimination (TPDES) Permit 02653. The average values as compared to the range or allowable daily average and allowable daily maximum for each parameter are: pH, 7.6 standard units (s.u.) as compared to the range 6.0-9.0 s.u; TSS, average 5.2 mg/L, compared to allowable daily average of 35 mg/L and

allowable daily maximum of 70 mg/L; Fe, average 0.8 mg/L, as compared to an allowable daily maximum of 6.0 mg/L; and Mn, average 0.2 mg/L, as compared to an allowable daily maximum of 2.0 mg/L. Because of the location of the pond, there is no upstream to downstream comparison available; however, Staff indicates that the average values noted for the period of record appear to be similar to water quality concentrations observed during the same period of record at the stream monitoring stations located upstream of mining disturbances. The average pH value, 7.6 s.u., also meets the requirement for Stream Segment No. 1252 of the Navasota River that receives discharges from the pond, 6.5 – 9.0 s.u. The average TDS is only slightly higher, 319 mg/L based on grab samples, than the stream segment standard of 300 mg/L. Based upon these results of sampling and the dilution effects that occur downstream, the proposed release area is not contributing suspended solids to streamflow or runoff outside of the release area in excess of required performance standards [§12.313(a)(2)].

- (e). Groundwater has been protected in accordance with §12.348 for the areas requested for Phase III release. TWCC submitted information for the overburden, spoil and underburden aquifers within and adjacent to the mine. Long-term monitoring data reviewed by Staff on a quarterly basis for the overburden and underburden hydrologic units in areas within the mine do not indicate that any significant impacts have occurred to water quantity and quality.
 - (1). Based on the hydrology report and Staff review, the premine overburden water-bearing strata of the Carrizo aquifer in the reclaimed area have been destroyed; premine, however, they contained minor aquifers. The underburden aquifers are separated from the mined areas by clays of five feet or more in thickness. Below these underclays are shallow water-bearing underburden units that are thin silty sand lenses, and clays, and lignite stringers. The shallowest significant aquifer is located in the lower Calvert Bluff and Simsboro Formations (interval S70).

- (2). The application also includes TWCC's groundwater assessment that includes a summary review of quarterly groundwater monitoring data for water level and groundwater chemistry. Staff review indicates that data from several long-term spoil groundwater monitoring (LTGM) wells within and adjacent to the areas requested for Phase III release show measurable increases in water table elevation since mining as well as stabilizing levels with only slight rises and falls in water levels that can be attributed to seasonal changes (as illustrated on figures contained in Appendix B of the application). Monitored wells in the adjacent overburden and interburden intervals have recovered from temporary drawdown, as have underburden aquifers that show recovery, although recovery is not yet complete. No significant impacts have occurred to water quantity.
- (3). Reclaimed spoil area water quality appears to have followed trends expected based on predictions in the Probable Hydrologic Consequences (PHC) determination for this mine and Staff's Cumulative Hydrologic Impact Assessment (CHIA). Based on five Area A spoil monitoring wells, TDS concentrations vary considerably but are decreasing. TDS concentrations in water in Area B spoil began to drop in late 2011. TDS concentrations in the A and B Areas reflect higher median TDS concentrations than in Areas C and D. Adjacent downgradient Carrizo wells do not appear to have been affected by mining. Overburden monitoring wells in the Calvert Bluff S40 and S50 hydrogeologic intervals exhibit low TDS concentrations and no changes are apparent in sulfate or chloride concentrations. Underburden wells have not been adversely affected by mining.
- (4). As documented in Commission inspection records, all cased boreholes have been plugged in accordance with Commission guidelines except for those wells

still being used for monitoring and reporting purposes.

- (f). TWCC has conducted surface mining activities in accordance with §12.313(a)(3) and §12.349 to protect surface water quality and quantity for the areas requested for Phase III release. The southwestern portion of the permit area drains to Lake Limestone and thence to Segment 1252 of the Navasota River. The northeastern portion of the permit area drains to Buffalo Creek, thence to Segment 0804 of the Trinity River. Staff has reviewed data provided by TWCC from upstream long-term monitoring stations for the period of record to downstream long-term stream monitoring stations for a similar period of record and compared pH values and flow-weighted TDS concentrations to stream segment standards for Segment 1252 of the Navasota River and for Segment 1804 of the Trinity River. The average annual maximum pH for each downstream long-term monitoring station for the period of record was within the 6.5-9.0 standard units required. In addition, the flow-weighted average TDS concentrations for the downstream stations for the periods of record were only slightly in excess or were below the maximum 600 mg/L requirement for Segment 0804 of the Trinity River and the maximum 300 mg/L requirement for Segment 1252 of the Navasota River. The application, as supplemented, and Staff review in it TA as amended, demonstrate that there have been no deleterious effects on the surface water hydrological balance.
- (g). Staff prepared cumulative hydrologic impact assessments (CHIAs) for the Turlington Mine in its TA Addendum No. 4 dated May 14, 2010 and for the Kosse Mine in TA Addendum No. 2 dated December 16, 2011 that each included an assessment of the cumulative effects of all anticipated mining in the portions of the Navasota River Basin and the Trinity River Basin affecting the areas proposed for release. Potential increases in TDS in receiving streams were expected to be minimal and still below the maximum annual average applicable to the stream segments examined for the Trinity River and for downstream of the confluence of Steele Creek and the Navasota River. Impacts on

water quantities were determined to be insignificant.

15. The reclamation cost estimate for the currently accepted bond is based on the “worst-case” pit method of calculation that assumes that reclamation is contemporaneous. For this method, estimated costs are generally not based on a per-acre cost. The cost estimate is based on the worst-case pit and reclamation of all temporary structures. Soil preparation, revegetation, and maintenance costs, however, are retained on a per-acre basis should revegetation fail and have to be repeated. The only costs attributable to the areas requested for release that are applicable for inclusion in a calculation of eligible bond reduction are the costs for soil preparation, revegetation, and maintenance (\$791/acre) attributable to the area requested for Phase III release requiring soil preparation, revegetation, and maintenance [479.3 acres made up of the pastureland areas requested for Phase III release, 17.2 acres (Parcel 1) and 462.1 acres]. The eligible bond reduction amount, based upon the Findings of Fact contained in this Order, is \$791 per acre, x 479.3 acres, or \$379,126.30, plus 10% for administrative costs (\$37,912.63), totaling \$417,038.93.
16. TWCC has not requested an adjustment to the approved bonds at this time. No replacement bond instrument has been filed.
17. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.
18. Open meeting notice has been posted for consideration of this application.

CONCLUSIONS OF LAW

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

1. Proper notice was provided for this request for release of reclamation obligations.
2. A public hearing on the request is not warranted.
3. TWCC has complied with all applicable provisions of the Act and the Regulations for release of reclamation obligations for the areas requested for release as set out in the Findings of Fact.
4. The Commission may approve the following release of reclamation obligations: Phase I release of reclamation obligations for 436.8 acres, Phase II and Phase III releases of reclamation obligations for 20.7 acres, and Phase III release for 463.2 acres.
5. The areas approved for release of Phase III reclamation obligations are eligible for a bond reduction amount for obligations for soil preparation, revegetation, and maintenance, plus administrative costs in the amount of \$417,038.93.

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

IT IS FURTHER ORDERED that a release of Phase I reclamation obligations for 436.8 acres is hereby approved;

IT IS FURTHER ORDERED that a release of Phase II and Phase III reclamation obligations for

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20.7 acres is hereby approved;

IT IS FURTHER ORDERED that a release of Phase III reclamation obligations for 463.2 acres is hereby approved;

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

IT IS FURTHER ORDERED that the Commission approves an eligible bond reduction amount for the Phase III releases in the amount of \$417,038.93;

IT IS FURTHER ORDERED that the current bonds remain in effect according to their terms until replacement bonding is approved by the Commission;

IT IS FURTHER ORDERED that the Commission may vary the total amount of bond required from time to time as affected land acreage is increased or decreased or where the cost of reclamation changes; and

IT IS FURTHER ORDERED by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is mailed. If a timely

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motion for rehearing is filed by any party of interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further Commission action. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

SIGNED this 12th day of August, 2014.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN BARRY T. SMITHERMAN



COMMISSIONER DAVID PORTER



COMMISSIONER CHRISTI CRADDICK

ATTEST:



Secretary, Railroad Commission of Texas

