# RAILROAD COMMISSION OF TEXAS
# HEARINGS DIVISION

**SURFACE MINING DOCKET NO. C19-0008-SC-27-F**
**APPLICATION BY WALNUT CREEK MINING COMPANY**
**RELEASE OF PHASE III RECLAMATION OBLIGATIONS FOR 63.9 ACRES**
**PERMIT NO. 27H, CALVERT MINE**
**ROBERTSON COUNTY, TEXAS**

## ORDER APPROVING PHASE III OF RECLAMATION OBLIGATIONS FOR 63.9 ACRES

### Statement of the Case

Walnut Creek Mining Company (Walnut Creek), P.O. Box H, Bremond, Texas 76629 applied to the Railroad Commission of Texas (Commission), Surface Mining and Reclamation Division, for the release of Phase III reclamation obligations for 63.9 acres within Permit No. 27H, Calvert Mine, Robertson County, Texas. The application is made pursuant to the Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2018) (Act), and the "Coal Mining Regulations," Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch.12 (Thomson West 2018) (Regulations). No new bond instrument has been filed, and Walnut Creek does not request reduction of the bond at this time.

Permit No. 27H currently authorizes surface coal mining operations at the Calvert Mine. 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 Walnut Creek and the Commission's Surface Mining and Reclamation Division (SMRD or Staff). There remain no outstanding issues between the parties. Based on the information provided by the application, Staff analyses and the inspection of the area, Staff recommends the approval of the release with which Walnut Creek concurs. 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. Walnut Creek is eligible to reduce the bond by an amount attributable to the 63.9 acres when an adjustment to the bond is requested in the future.

### FINDINGS OF FACT

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

1. By letter dated September 21, 2018, Walnut Creek Mining Company (Walnut Creek) filed its application (Application) with the Railroad Commission of Texas' (Commission) Surface Mining and Reclamation Division (SMRD or Staff) for release of Phase III reclamation obligations for 63.9 acres within the Calvert Mine, Permit No. 27H, located in Robertson County, Texas. By letter dated November 7, 2018, Walnut Creek submitted Supplement No. 1 to the Application in response to comments provided by Staff's letter dated September 26, 2018. Walnut Creek submitted Supplement No. 2 to the Application, revising notification materials, on November 30, 2018 following the

Administrative Law Judge's review by letter dated November 13, 2108. Staff declared the Application administratively complete by letter dated January 2, 2019 and filed its Technical Analysis (TA) in the docket by letter dated February 5, 2019.

2. The Application is made pursuant to Texas Surface Coal Mining and Reclamation Act, Tex. Nat. Res. Code Ann. Ch. 134 (Vernon Supp. 2018) (Act), and the Coal Mining Regulations, Tex. R.R. Comm'n, 16 Tex. Admin. Code Ch.12 (Thomson West 2018) (Regulations). The Application was properly certified in accordance with §12.312(a)(3).

3. The current reclamation performance bond totals $43,198,583 and is comprised of two separate surety bonds that were accepted by Commission Order dated January 27, 2015 [Docket No. C15-0006-SC-27-E].

4. Notice of the application was published once each week for four consecutive weeks in the *Robertson County News*, a newspaper of general circulation in the vicinity of the Calvert Mine in Robertson County, the locality of the surface mine. Dates of publication were November 22 and 29, 2018 and December 6 and 13, 2018. 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 approved bond, the type and appropriate dates reclamation work was performed, and a description of the results achieved as they relate to the approved reclamation plan. The notices 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. Walnut Creek submitted affidavits of publication with news clippings by letter dated December 19, 2018.

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 Robertson County, 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. By letter dated December 21, 2018, Walnut Creek submitted copies of letters notifying adjoining landowners and lessees, the Texas State Soil and Water Conservation Board, Robertson County Soil and Water Conservation District, Texas General Land Office, U.S. Army Corps of Engineers, Texas Commission on Environmental Quality, Brazos Valley River Authority, Natural Resources Conservation Service, Environmental Protection Agency, Tri-County S.U.D., Navasota Valley Electric CO-OP, Inc., Brazos Electric Power Cooperative, Inc.; CenturyLink, Inc., the Robertson County Commissioners' Court and the City Halls of Bremond and Calvert, Texas of the application for release in accordance with §12.312(a)(2) of the Regulations. The area

proposed for release is not located within the boundary of any municipality that would be notified pursuant to §12.313(c) of the Regulations.

8. SMRD notified the Robertson County Judge of the Application as required by §134.133 of the Act by certified letter dated November 20, 2018.

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 (OSM) by letters dated September 24, 2018, of the date and time of Staff's field inspection scheduled for October 11, 2018. The notification stated that the subject 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.

10. The inspection occurred on October 11, 2018 as scheduled. Following a pre-inspection meeting with a representative from Walnut Creek and four landowners, SMRD Inspection and Enforcement staff, accompanied by the representative from Walnut Creek and the landowners, conducted its inspection of the area requested for release. Except for the demonstration addressed in Finding of Fact No. 18, *infra*, the field report found that the proposed release area was eligible for the requested release, pending Staff review.

11. The permit area is comprised of approximately 8,040 acres located roughly 10 miles south of Bremond, Texas, and approximately 15 miles north of Calvert, Texas. The 63.9 acres proposed for release are located in the A1-4 Area of the mine in the northwestern portion of the permit area. A general location map of the permit area, with the 63.9 acres proposed for release distinguished, is found in Appendix I of Staff's Inspection Report. The area is depicted in photographs taken during Staff's inspection that occurred in October 2018 [Appendix IV; Inspection Report (Attachment III; TA)]. The application, photographic evidence and Staff's Inspection Report and TA provide support for release of Phase III reclamation obligations for the subject 63.9 acres.

12. The approved land uses within the 63.9 acres proposed for release are comprised of 62.9 acres of pastureland and 1.0 acre of developed water resources (DWR).

13. The Commission previously approved Phase I and II release of reclamation liability for the subject acreage by Order dated June 12, 2012 [Docket No. C11-0023-SC-27-F].

14. The 63.9 acres proposed for release from Phase III requirements meet the revegetation success requirements of §12.395 and completion of the five-year extended responsibility period of §12.395(c)(2) as applicable.

    (a) The 62.9 acres of pastureland postmine land use has been revegetated primarily with Bermudagrass, kleingrass and bahiagrass for warm-season permanent vegetation, and annual ryegrass for cool season coverage as required by §12.390. The 62.9 acres is comprised of land management unit (LMU) A1-4 that was placed in the extended responsibility area (ERA) on July 27, 2010.

(b) Walnut Creek has met the vegetation requirements of §12.395 for pastureland in accordance with approved standards for groundcover and productivity. Walnut Creek submitted groundcover and productivity reports for the 2011 and 2012 growing seasons for the A1-4 LMU by letters dated January 31, 2012 and January 31, 2013, respectively. SMRD determined that the groundcover and productivity data exceeded the approved standards for the land use of pastureland for this LMU during the 2011 and 2012 growing seasons by letters dated June 18, 2012 and April 2, 2013, respectively.

(c) In accordance with the approved soil-testing plan for Permit No. 27H, Walnut Creek submitted soil fertility data for the A1-4 LMU for the 2011 and 2012 growing seasons by letters dated February 8, 2012 and March 1, 2013, respectively. SMRD determined that the soil fertility data did not indicate that augmented fertilization occurred within the LMU for during the 2011 and 2012 growing seasons by letters dated February 29, 2012 and March 26, 2013, respectively. Walnut Creek submitted a random ten percent resampling of the soil grids in the A1-4 LMU by letter dated August 27, 2014. By letter dated January 20, 2015, Staff determined the data from the resampling does not reflect postmine soil degradation and is acceptable for the July 27, 2010 ERA.

(d) Groundcover on the 1.0 acre of DWR within the proposed release area is sufficient to control erosion in accordance with the performance standard for DWR land use. During its inspection of the area on October 11, 2018, Staff did not observe erosion on the DWR acre and noted all associated groundcover appeared adequate.

(e) The five-year period of extended responsibility applicable to this permit area having at least 26 inches of rainfall annually has been met for the pastureland acreage within the A1-4 ERA [§12.395(c)(2)]. The 1.0 acres of DWR is not required to complete the extended responsibility period prior to Phase III release.

15. Surface mining activities were conducted according to Walnut Creek's reclamation plan so that earth materials and runoff were handled to minimize acidic, toxic, or other harmful infiltration to groundwater systems and by operations conducted in a manner to prevent or control the discharge of pollutants into the groundwater. Groundwater quantity has been protected by restoring approximate premining recharge capacity of the reclaimed area as a whole. Operations were conducted in accordance with the requirements of §12.348 of the Regulations. Reclamation methods were used to minimize acid-forming and toxic-forming materials from adversely affecting groundwater, appropriate monitoring has occurred, and monitoring results indicate that the groundwater has been protected.

(a) Prior to mining, the overburden material in the bonded areas consisted of interbedded sands, silts and clays that had little or no capacity to store or transmit groundwater to wells, springs, or surface-water bodies. Further, isolated sand lenses and discontinuous bodies of sand that were also present in the mine area were not considered to be a significant groundwater resource. Silty sands present in the underburden below the deepest recoverable lignite seam are capable of producing small amounts of groundwater. These silty sands are interbedded with silts, clays and lignite stringer seams to a depth of 50 to 80 feet

below the base of the spoil; a clay unit ranging from 5 to 30 feet thick separates these silty sands from the base of the spoil. Mining took place in the lower Calvert Bluff Formation. The Simsboro Formation is the shallowest significant water-bearing unit beneath the Calvert Bluff Formation and occurs at depths greater than one hundred feet beneath the lowest mineable lignite seam in the permit area and is hydraulically isolated from the overburden by thick sequences of low-permeability confining strata. Thus, mining activities have not disturbed the Simsboro Formation in the release area.

(b) Walnut Creek addressed requirements related to groundwater protection through the submission of groundwater information on the overburden and underburden aquifers at the Calvert Mine, including data from eight long-term groundwater monitoring (LTGM) wells completed near the proposed release area. Groundwater monitoring data consists of general chemistry for five overburden LTGM wells [Wells 5494K(D), 5788D, 7-MW-E, L-MW-J and 6271] and three underburden LTGM wells (17-MW-S, G-MW-S-A and R-MW-S). Monitoring data from overburden monitoring wells indicate the water quality in the overburden is variable across the permit area. The pH values from samples recorded on December 17, 2017 in the overburden monitoring wells ranges from 6.98 s.u. (Wells 5494K and 6271) to 8.01 s.u. in well 7-MW-E but have remained stable in each well throughout the sampling history. TDS concentrations range from 292 mg/L in well 7-MW-E mg/L to 1,150 mg/L in well 5494D. TDS, chloride and sulfate concentrations have been stable in these wells throughout the monitoring histories. Water levels observed at the five overburden wells indicate that there have not been significant impacts to water quantity in the overburden aquifers. Data obtained from wells 17-MW-S, G-MW-S-A and R-MW-S indicates that the underburden has not been impacted by mining other than a temporary reduction of the potentiometric surface. The water levels in wells 17-MW-S and G-MW-S-A, completed in the underburden Simsboro sand, have decreased since initial measurements but have been increasing since 2012. The water level in Simsboro well R-MW-S has declined about 50 feet but has been stable since 2012. TDS, chloride, iron and sulfate values in these underburden Simsboro wells have remained constant throughout the period of record.

(c) Three spoil monitoring wells (A9W in Pit 1, B9W in Pit 2 and SP1 in Pit 6) are included in Walnut Creek's LTGM plan. No sample has ever been collected from well A9W as the well is dry; wells B9W and SP1 yield water too slowly to sample regularly. Walnut Creek indicates that the quality of the water in samples collected from B9W and SP-1 is like the quality of water in some of the less permeable Calvert Bluff zones. In effect, the spoil-aquifer re-saturates so slowly the spoil monitoring wells do not yield sufficient water for reliable sampling results. Based on monitoring data and the hydrologic conditions, it is unlikely that re-saturation of spoil will impact the quality of adjacent overburden groundwater. Localized effects to underburden and overburden water quantity have been only temporary. The groundwater systems adjacent to the proposed release area have not been impacted by deterioration in water quality or quantity as a result of the mining or reclamation activities. With respect to protection of the groundwater hydrologic balance, Walnut Creek has complied with the requirements of the Regulations for the 63.9-acre proposed for Phase III release from reclamation obligations.

16. The 63.9 acres proposed 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. 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, surface water quality and quantity have been protected.

(a) Runoff from the area proposed for release drains to the east into Big Willow Creek and to the west to Walnut Creek. Big Willow Creek flows into Walnut Creek which flows into the Little Brazos River, thence into the Brazos River [Texas Commission on Environmental Quality (TCEQ) Stream Segment No. 1242] and then to the Gulf of Mexico near Freeport, Texas.

(b) Staff reviewed baseline surface water monitoring records for stations upstream and downstream of the area requested for release for the period of record (March 1998 to September 2018) and compared these records to records of long-term surface water monitoring (LTSM) stations downstream of the area requested for release on Walnut Creek. The records of LTSM downstream stations were then compared with the TCEQ Stream Segment Standard for Stream Segment 1242 of the Brazos River to determine any effects from mining.

(i) In accordance with the approved LTSM plan, the following stations that are representative of the surface water flowing from the subject acreage were sampled for flow, hydrogen-ion concentration (pH), total dissolved solids (TDS), total suspended solids, total iron, total manganese, sulfate, and chloride: LTSM Station 5 located upstream of the 63.9 acres on Big Willow Creek (undisturbed); LTSM 3 located downstream of the acreage on Walnut Creek (disturbed); and LTSM 4 (re-designated as 6-7 in June 2016) located downstream on Walnut Creek (disturbed). Graphical and statistical analyses of all data collected at LTSM Station Nos. 3, 4, and 5 were provided in the Application.

(ii) Premine data from disturbed monitoring stations 3 and 4, collected from 1984 to 1988, was compared to data at the same stations from 1998 to 2018. LTSM data for undisturbed station 5 was compared to the downstream stations and these stations were compared to the TCEQ limitations for Stream Segment 1242. The ranges for pH for the undisturbed station [6.0 – 8.7 standard units (s.u.)], and disturbed stations (No. 3: 6.7 – 8.5 s.u.; No. 4: 6.2 – 8.5 s.u.) were nearly always compliant with the TCEQ stream segment standard, 6.5 – 9.0 s.u.; with the lowest pH value at the disturbed station No. 4 occurring in December 2011 and remaining within the stream segment criterion since. Further, the average pH values observed at the downstream stations, 7.6 s.u. (No. 3) and 7.3 s.u. (No. 4), are within the stream segment criterion. The average TDS (470 mg/L) observed at disturbed LTSM Station No. 3 is lower than stream segment criterion, but the range (10 mg/L - 1,210 mg/L) is higher than the criterion for TDS concentration (1,000 mg/L); however, the highest TDS concentration (1,210 mg/L) for disturbed LTSM station 3 occurred on September 21, 2015, since that time TDS concentrations

have been below 1,000 mg/L. Additionally, the flow-weighted average TDS concentration at disturbed LTSM Station No. 3 (419.1 mg/L) is lower than the Stream Segment No. 1242 criterion for TDS concentration (1,000 mg/L). The data for disturbed LTSM Station No. 4 shows that the average TDS (263 mg/L) and TDS range (141 mg/L – 377 mg/L) are within Stream Segment No. 1242 criterion for TDS concentration (1,000 mg/L). The LTSM data from the disturbed stations shows sulfate concentrations were nearly always within the stream segment criterion for sulfate (200 mg/L). The highest sulfate concentration (516.0 mg/L) occurred at LTSM Station No. 3 in September 2015; however, sulfate concentrations have been below the maximum daily allowable for sulfate (200 mg/L) since that measurement. Chloride concentrations observed at the disturbed stations have been below the Stream Segment No. 1242 criterion for chloride (350 mg/L) with the exception of a concentration measured at LTSM Station No. 4 in June 2000 (390 mg/L). Since that time, chloride concentrations at Station No. 4 have been below the applicable maximum.

(iii) Walnut Creek provides an analysis of surface water quantity in comparison to the PHC determination in Permit No. 27H, which indicates that the total peak discharge and runoff volume for the postmine scenario are slightly less than the premine values. Walnut Creek concludes that the conversion of sedimentation ponds to permanent water resources will further mitigate the potential increase in runoff due to disturbance. By detaining runoff, peak flows from precipitation events will be attenuated, infiltration to aquifers will be increased, as will evapotranspiration. Thus, longer sustained flows will be expected because of the controlled discharge through the pond's outlet and increased groundwater contributions to stream baseflow. Based on the premine and postmine conditions considered in the permit, Walnut Creek estimates annual evaporation losses of 1,201.0 acre-feet/year.

(iv) Staff's Cumulative Hydrologic Impact Assessment (CHIA) for the Calvert Mine (Permit No. 27H) and Bremond mine (Permit No. 49A), contained in the September 1, 2016, Technical Analysis (Docket No. C14-0012-SC-27-C), establishes material damage criteria for the defined cumulative impact area which are based on baseline surface-water quality information contained in the permit, TCEQ stream-segment criteria, drinking-water standards, and TPDES wastewater discharge permit standards. In its CHIA, Staff indicates that the greatest potential increase in TDS concentration is anticipated at Mass-Balance Point No. 1 (Walnut Creek, immediately upstream of its confluence with the Little Brazos River). The greatest potential increase in TDS concentration is expected to be approximately 31.4%, from approximately 240 mg/L to 315 mg/L, which is less than the maximum annual average concentration for Stream Segment No. 1242 (1,000 mg/L). The flow-weighted average TDS concentrations at disturbed LTSM Station No. 3 (419 mg/L) somewhat exceed the TDS concentration predicted in the CHIA at Mass-Balance Location No. 1 but is less than the maximum annual average concentration for Stream Segment No. 1242 (1,000 mg/L).

17. There are two permanent ponds, AP-15 and AP-17, located within the 63.9 acres proposed for Phase III release. Pond AP-15 was approved by Staff on November 9, 2007 with a condition that required Walnut Creek to provide data from an existing permanent pond that is not chemically treated in the vicinity of the pond or provide a statement that existing sedimentation ponds in the vicinity were not being chemically treated for reported sampling events. By letter dated November 16, 2007, Walnut Creek confirmed that the sedimentation ponds in the vicinity were not chemically treated prior to discharge events that were sampled and reported in the design plans for pond AP-15. SMRD subsequently approved the pond AP-15 without the condition on August 6, 2008. Pond AP-17 was approved as a permanent structure by Staff on April 29, 2005. Walnut Creek provided copies of the approval letters and construction certificates for the ponds in Section 3 of the Application.

18. There are no small depressions located within the proposed release area. During its inspection of the subject acreage on October 11, 2018, Staff noted that Walnut Creek had not conducted a survey to determine if any small depressions exist that require Commission approval during the fourth year of the extended responsibility period or at least six months prior to submission of the Application in accordance with SMRD Advisory Notice EN-PS-385(c). By letter dated December 21, 2018, Walnut Creek indicated the absence of any small depressions within the proposed release area. A description of the investigation conducted to arrive at that conclusion was provided on January 14, 2019 at the request of Staff, and the report was acknowledged by SMRD letter dated January 18, 2019.

19. The area requested for release of reclamation obligations is capable of sustaining the approved postmine land uses. Monthly inspections and Staff's inspection on October 11, 2018 demonstrate that the land has been reclaimed to and managed in accordance with the requirements for pastureland and DWR.

20. Pursuant to §12.313(a)(3), the Commission may release the remaining portion of the bond attributable to the subject 63.9 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 III release, Walnut Creek is eligible to reduce the bond amount for Permit No. 27H. In its TA, Staff calculated an eligible bond reduction amount according to the reclamation cost estimate (RCE) contained in the application for renewal/revision of Permit No. 27G that was approved by Commission Order dated October 11, 2016 [Docket No. C14-0012-SC-27-C]. Following an inquiry from the administrative law judge concerning the accuracy of the RCE used to calculate the eligible bond reduction amount in the TA, Staff transmitted its approval letter and review memorandum for Revision No. 3 to the permit that contains the most recent RCE that was approved by the SMRD Director on February 8, 2018. A review of the RCE approved in Revision No. 3 leads to the conclusion that the eligible reduction amount contained in the TA is inaccurate. However, as stated by Staff in its TA, a specified reduction amount is only an estimate provided for illustration purposes. The actual amount of any reduction would be calculated based on the costs for reclamation at the time a bond reduction is requested by Walnut Creek; therefore, ensuring the proposed bond amount is sufficient to cover the cost of outstanding reclamation work. Given Walnut Creek does not request an adjustment to the approved bond in the Application, the accuracy of the amount of the reduction contained in the TA is inconsequential, as any eligible reduction amount based on the current reclamation

cost estimate would be superseded once the costs for reclamation are calculated at a future date when Walnut Creek requests a reduction of the bond. 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 Walnut Creek is eligible to reduce the amount of bond attributable to the 63.9 acres granted Phase III release, but does not specify the amount of the reduction.

21. No reduction of the surety bonds totaling $43,198,583 that were accepted by Commission Order dated January 27, 2015 is requested in the Application.

22. All acres requested for release were marked in the field to distinguish them from active mining and reclamation areas.

23. Walnut Creek 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 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. Walnut Creek 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. Walnut Creek has complied with all applicable provisions of the Act and the Regulations for the release of Phase III reclamation obligations for 63.9 acres of land within the Calvert Mine.

5. The Commission may approve a release of Phase III reclamation obligations for the 63.9 acres as set out in the above Findings of Fact and Conclusions of Law.

6. Walnut Creek is eligible to reduce the bond for the permit by the amount that is attributable to the subject 63.9 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** that a release of Phases III reclamation obligations for 63.9 acres is hereby approved;

**IT IS FURTHER ORDERED** Walnut Creek is eligible to reduce the amount of bond for the permit by the amount that is attributable to the 63.9 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;

**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, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case is 100 days from the date the Commission Order is signed.

**SIGNED** this March 26, 2019.

**RAILROAD COMMISSION OF TEXAS**

Christi Craddick
**CHAIRMAN CHRISTI CRADDICK**

**COMMISSIONER RYAN SITTON**

**COMMISSIONER WAYNE CHRISTIAN**

**ATTEST:**
Deputy Secretary
Railroad Commission of Texas