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*By Office of the Secretary at 4:30 pm, Apr 17, 2020*

**STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF ENVIRONMENT**

**NEW MEXICO ENVIRONMENT DEPARTMENT  
WATER PROTECTION DIVISION,  
SURFACE WATER QUALITY BUREAU,**

**Complainant,**

**No. SWQB 20-16 (CO)**

**v.**

**MATADOR PRODUCTION COMPANY and  
SAN MATEO MIDSTREAM, LLC,**

**Respondents.**

**REQUEST FOR PUBLIC HEARING AND ANSWER TO ADMINISTRATIVE  
COMPLIANCE ORDER**

On Monday, February 24, 2020, San Mateo Midstream, LLC (“San Mateo”) received notification of a possible disturbance and alleged substance in the Black River, near the site where a contractor, S&J Contractors, was conducting a boring operation under the river for one of San Mateo’s subsidiaries. San Mateo promptly commenced an investigation; however, it remains unclear from such investigation whether any bentonite or soda ash—the materials used in the boring operation—actually entered the river, or whether the substance that was seen was naturally occurring sediment. Bentonite and soda ash are naturally occurring materials that are often used in connection with water-related activities, such as lining ponds and adjusting the pH balance of well water, and both substances are similar to the clay at the bottom of a riverbed. Following a thorough investigation, no tests have shown that any bentonite or soda ash entered the river. Additionally, San Mateo has observed that during times of rain significant runoff from a nearby property owned by a different party appears to have substantially contributed to sediment at the bottom of the river.

San Mateo operates in a sustainable manner and has worked with the New Mexico Environment Department (the “NMED”) and the New Mexico Oil Conservation Division of the Energy, Minerals, and Natural Resources Department (the “OCD”) in good faith to propose certain remediation actions. Nevertheless, San Mateo disagrees with the allegations and proposed penalties outlined in the ACO as set forth in more detail below.

Pursuant to 20.1.5.200 NMAC, Respondents Matador Production Company (“Matador”) and San Mateo (collectively, “Respondents”) timely request a public hearing on the NMED Water Protection Division’s (“Division”) Administrative Compliance Order (“ACO”) issued on behalf of the Surface Water Quality Bureau (“Bureau”), attached hereto as **Exhibit A**. For its Answer to the ACO, Respondents state as follows:

1. Respondents admit the allegations contained in paragraph 1.
2. In response to paragraph 2, on information and belief, Respondents admit the allegations contained in paragraph 2.
3. In response to paragraph 3, Respondents admit that work was being performed at a location approximately 1/2 mile due west of Highway 285, approximately equidistant between Loving and Malaga, New Mexico, in Section 9 of Township 24 South, Range 28 East in Eddy County, New Mexico, at coordinates of approximately 32.240150 North Latitude, -104.089572 East Longitude (the “Site”). Respondents deny that either Respondent was performing the work; rather, the work was being done on their behalf by a third-party independent contractor.
4. In response to paragraph 4, Respondents admit that a hole was being bored at the Site on Respondents’ behalf for purposes of installing a pipeline within a steel casing approximately 37 feet below ground surface under the Black River. Respondents deny the remaining allegations in paragraph 4.

5. In response to paragraph 5, Respondents admit that Vertex Resource Group, acting on Respondents' behalf, notified the Bureau of a potential release of bentonite-based drilling mud into the Black River near the Site on February 25, 2020. Respondents deny all other allegations in paragraph 5.

6. In response to paragraph 6, Respondents admit that operations performed on behalf of Respondents continued at the site until February 25, 2020, and that Vertex, on behalf of Respondents, verbally reported a potential release to NMED and other state agencies. Respondents deny all other allegations in paragraph 6, and specifically deny that the origination of the alleged release at the Site occurred on or around February 10, 2020.

7. In response to paragraph 7, Respondents admit that the boring fluid used by its contractor during operations at the Site contained bentonite mixed with soda ash. Respondents lack sufficient information to admit or deny the remainder of the allegations in paragraph 7, and therefore deny them.

8. Respondents lack sufficient information to admit or deny the allegations in paragraph 8, and therefore deny them.

9. Paragraph 9 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 9.

10. Paragraph 10 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 10.

11. Respondents lack sufficient information to admit or deny the allegations in paragraph 11, and therefore deny them.

12. Paragraph 12 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 12.

13. In response to paragraph 13, Respondents admit that New Mexico Department of Game and Fish personnel were at the Site on February 25, 2020, and recorded observations of discolored water and tan-colored sedimentation within the Black River streambed immediately downstream of the Site. Respondents lack sufficient information to admit or deny the remaining allegations in paragraph 13, and therefore deny them.

14. Respondents lack sufficient information to admit or deny the allegations in paragraph 14, and therefore deny them.

15. Respondents lack sufficient information to admit or deny the allegations in paragraph 15, and therefore deny them.

#### **CONCLUSIONS OF LAW**

16. Paragraph 16 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 16.

17. Paragraph 17 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 17.

18. Paragraph 18 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 18.

## COMPLIANCE

19. In response to the requirements communicated to Respondents from the Oil Conservation Division of the Energy, Minerals, and Natural Resources Department (“OCD”), and as provided in paragraph 19, the Respondents state that they have taken the following immediate actions and provide the following responses to the Bureau’s compliance requirements under this ACO:

a. Respondents have limited access of others to the Site and affected area as appropriate to protect human health and environment;

b. Respondents have taken action to prevent potential threat to public health and the environment;

c. Respondents have continued regular water quality monitoring to ensure that the allegedly released materials are effectively contained at a frequency established by the OCD;

d. Respondents have provided and are continuing to provide the Bureau with turbidity data, analytical results, and additional proposed sampling plans;

e. Reserving all rights and defenses, and without waiving any objections or admitting any liability under this ACO, Respondents state that pending a final determination and resolution of this ACO, Respondents will:

i. Conduct remediation, as required;

ii. Recover alleged released materials to the extent feasible and practicable, and dispose of them in an appropriate matter, as required; and

iii. Collect water quality samples upstream and downstream for analysis after remediation, and report those results to the Bureau in an expedited manner, as required.

20. In response to paragraph 20, Respondents state that Respondents intend to resume borehole construction operations as soon as authorized to do so—Respondents believe that it is

both safe and practicable to resume such operations. Respondents submitted a Notice of Intent (“NOI”) to the Bureau by electronic mail on March 30, 2020, attached hereto as **Exhibit B**. As agreed by the Bureau, the Notice of Intent included the information required in ACO paragraphs 20(a), 20(b), 20(c)(1), 20(c)(2), and 20(c)(4). *See* email from A. Knight to A. Rankin, dated March 26, 2020, attached hereto as **Exhibit C**. Also as agreed by the Bureau, Respondents submitted a remediation plan on April 10, 2020, which included the information required in ACO paragraphs 20(c)(3) and 20(c)(4), attached hereto as **Exhibit D** (without attachments).

21. Respondents have not resumed efforts to complete its borehole operation.

22. Paragraph 22 purports to impose legal obligations or requirements on Respondents under this ACO that are contested by Respondents and, therefore, remain unresolved. In response to paragraph 22, to the extent that any response is necessary, Respondents deny any factual allegations.

23. Respondents have copied the NMED on correspondence and reports submitted to the OCD related to (a) analytical results of water samples taken, (b) the lateral extent of the area affected by the release, (c) corrective actions completed or in progress, and (d) the nature of actions taken or to be taken.

24. As required by paragraph 24, Respondents have timely submitted a complete NOI, as described above in paragraph 20.

25. Paragraph 25 purports to impose legal obligations or requirements on Respondents under this ACO that are contested by Respondents and, therefore, remain unresolved. In response to paragraph 25, to the extent that any response is necessary, Respondents deny any factual allegations.

26. Paragraph 26 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 26.

### **CIVIL PENALTY**

27. Paragraph 27 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 27.

28. Paragraph 28 asserts legal conclusions, rather than factual allegations, to which no response is necessary; to the extent that any response is necessary, Respondents deny any factual allegations contained in paragraph 28.

29. Paragraph 29 purports to impose legal obligations or requirements on Respondents under this ACO that are contested by Respondents and, therefore, remain unresolved. In response to paragraph 29, to the extent that any response is necessary, Respondents deny any factual allegations.

30. Respondents deny each and every allegation not specifically admitted herein.

### **AFFIRMATIVE DEFENSES**

1. The alleged turbidity and streambed sedimentation referenced in the ACO were caused, in whole or in part, by the acts or omissions of other entities or individuals, for which Respondents are not responsible.

2. The alleged turbidity and streambed sedimentation referenced in the ACO were attributable, in whole or in part, to natural causes that are not subject to federal or state water pollution control permitting or standards adopted under the Water Quality Act.

3. NMED lacks jurisdiction over the subject matter of the ACO.

4. NMED does not have the capacity and/or authority to assert claims in the ACO that belong to the OCD.

5. NMED's ACO improperly fails to treat a "single operational event that leads to simultaneous violations of more than one standard . . . as a single violation," as required by NMSA 1978, Section 74-6-10(E).

WHEREFORE, Respondents pray for a ruling in their favor on all of the allegations asserted, on their affirmative defenses, and for such other relief deemed just and fair.

Respectfully submitted,

**HOLLAND & HART, LLP**

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*Attorneys for Respondents*

**AFFIRMATION STATEMENT**

Pursuant to 20.1.5.200(A)(2)(c) NMAC, the information contained in Respondent's Answer is, to the best of my knowledge, believed to be true and correct.

/s/ Adam G. Rankin  
Adam G. Rankin



**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2020, I filed the foregoing document with the New Mexico Environment Department Office of Public Facilitation via Electronic Mail to cody.barnes@state.nm.us and further certify that I served it on the following also via Electronic Mail:

Andrew P. Knight, Esq.  
Office of General Counsel  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502-5469  
Andrew.Knight@state.nm.us

*Attorney for the New Mexico Environment Department*

Rebecca Roose  
Water Protection Division  
New Mexico Environment Department  
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/s/ Adam G. Rankin  
Adam G. Rankin

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No. SWQB 2020 - \_\_\_\_\_ (CO)

**MATADOR PRODUCTION COMPANY and  
SAN MATEO MIDSTREAM, LLC,**

**Respondents.**

**ADMINISTRATIVE COMPLIANCE ORDER REQUIRING COMPLIANCE  
AND ASSESSING A CIVIL PENALTY**

The Water Protection Division (“Division”) of the New Mexico Environment Department (“Department”) issues this Administrative Compliance Order (“Order”) to Matador Production Company and San Mateo Midstream, LLC (“Respondents”) on behalf of the Department’s Surface Water Quality Bureau (“Bureau”). This Order is issued pursuant to Section 74-1-10 of the Environmental Improvement Act (“Act”) and the Interstate and Intrastate Standards for Surface Water (“Regulations”) found at 20.6.4 NMAC. The Secretary of the Department has delegated the authority to issue this Order to the Director of the Division.

**FINDINGS OF FACT**

1. Respondent Matador Production Company is an oil and gas exploration and production company, with its headquarters in Dallas County, Texas. Respondent San Mateo Midstream, LLC is a joint venture formed by Matador Resources Company and Five Point Capital Partners to operate and grow midstream assets in the Delaware Basin.

**EXHIBIT A**

2. The Department is an executive agency of the State of New Mexico and is authorized to enforce the provisions of the Act and the Regulations.

3. Respondents were performing work at a location approximately 1/2 mile due west of Hwy 285, equidistant between Loving and Malaga, New Mexico at coordinates 32.240150 North Latitude, -104.089572 East Longitude (“Discharge Site,” or “Site”).

4. Beginning in February 2020 Respondents were drilling a borehole and installing a pipeline approximately 37 feet below ground surface, under the Black River at the Site.

5. The Bureau received preliminary notification on February 25, 2020 from Vertex Resource Group, acting on Respondents’ behalf, regarding the release of a drilling fluid into the Black River from the pipeline construction activity at the Site.

6. The Department is in possession of satellite imagery that appears to show the origination of the spill occurred on or around February 10, 2020, and that operations continued until February 25, 2020, when Vertex, on behalf of the Respondents, verbally reported the incident to the Department and other state agencies.

7. The drilling fluid consisted of bentonite clay mixed with soda ash (sodium carbonate, pH 11.3) and consequently had a high pH outside of the normal range for streams.

8. Release of the drilling fluid into the Black River caused violations of the State of New Mexico Water Quality Standards.

9. Surface water quality standards and protection regulations in the New Mexico Administrative Code (“NMAC”) adopted pursuant to the Water Quality Act (Chapter 74, Article 6, New Mexico Statutes Annotated (“NMSA”) 1978) apply at all times.

10. Applicable standards include, but are not limited to:

20.6.4.13 GENERAL CRITERIA: General criteria are established to sustain and protect existing or attainable uses of surface waters of the

state... Surface waters of the state shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property.

A. Bottom deposits and suspended or settleable solids:

(1) Surface waters of the state shall be free of water contaminants including fine sediment particles (less than two millimeters in diameter), precipitates or organic or inorganic solids from other than natural causes that have settled to form layers on or fill the interstices of the natural or dominant substrate in quantities that damage or impair the normal growth, function or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.

(2) Suspended or settleable solids from other than natural causes shall not be present in surface waters of the state in quantities that damage or impair the normal growth, function or reproduction of aquatic life or adversely affect other designated uses...

J. Turbidity: Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water. Activities or discharges shall not cause turbidity to increase more than 10 NTU over background turbidity when the background turbidity, measured at a point immediately upstream of the activity, is 50 NTU or less, nor to increase more than twenty percent when the background turbidity is more than 50 NTU.

11. The Pecos River Basin, as described in 20.6.4.202 NMAC, includes the main stem of the Pecos River from the mouth of the Black River upstream to lower Tansil Dam, including perennial reaches of the Black River, the Delaware River and Blue Spring.

12. The Black River is a perennial water of the state subject to 20.6.4.202 NMAC with the designated uses of industrial water supply, irrigation, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

13. Observations made by New Mexico Department of Game and Fish personnel on February 25, 2020 indicated discolored water and a tan-colored, pudding-like mixture approximately six inches thick covering the bottom of the stream immediately downstream of the Site. Attachment1. Substantial visible contrasts with the natural appearance of the Black River

also occurred downstream of the Site. Attachment 2.

14. Observations recorded by New Mexico Department of Game and Fish showed that immediately downstream of the discharge location, no benthic organisms were recorded due to the thick layer of bentonite in place on the river bottom.

15. Historic water quality data collected by the Bureau in the Black River in 2013 indicates a median background (upstream) turbidity level of 12.2 nephelometric turbidity units (“NTU”). Data from Respondent on February 27, 2020 indicated a turbidity value of 126.10 NTU 100 yards downstream of the Site. Turbidity data from the day of discharge is not available.

### **CONCLUSIONS OF LAW**

16. The Department has jurisdiction over Respondents pursuant to the Act and the Regulations.

17. Violations of state Water Quality Standards can lead to penalties under Section 74-6-10.1 B of the New Mexico Water Quality Act, which states, "Any person who violates any provision of the Water Quality Act [Chapter 74, Article 6 NMSA 1978] other than Section 74-6-5 NMSA 1978 or any person who violates any regulation, water quality standard or compliance order adopted pursuant to that act shall be assessed civil penalties up to the amount of ten thousand dollars (\$10,000) per day for each violation."

18. Respondents are in violation of Section 20.6.4.13(A) and 20.6.4.13(J) NMAC and are jointly and severally liable for these violations.

### **COMPLIANCE**

19. Consistent with requirements communicated to the Respondent from the Oil Conservation Division of the Energy, Minerals, and Natural Resources Department (“OCD”), the Respondent must take the following actions immediately:

- a. Limit access to the affected area as necessary to protect human health and the environment.
- b. Contain the released materials to prevent further threat to public health and the environment.
- c. Continue regular water quality monitoring to ensure that the released materials (bentonite drilling mud) are effectively contained at a frequency established by the OCD.
- d. Provide the Bureau with turbidity data, analytical results and any additional sampling plans.
- e. Commence remediation as soon as possible after approval of the remediation plan required in Paragraph 20(c) of this Order.
- f. Recover the released materials (bentonite drilling mud) and dispose of them in a proper manner.
- g. Collect water quality samples upstream and downstream for analysis after remediation and report these results to the Bureau within 7 days of sampling.

20. If the Respondent intends to resume the pipeline construction activities, the Respondent shall first submit a Notice of Intent (“NOI”) to the Bureau as specified in 20.6.2.1201 NMAC. The NOI must include the following:

- a. A detailed description of the activity to be conducted, including expected duration of the pipeline construction activity and quantity of material (bentonite drilling mud) to be potentially discharged,
- b. Ongoing monitoring and water quality surveillance that will be conducted while the activities are ongoing,

c. A specific remediation plan to address the bentonite clay that was deposited in the Black River, as well as any additional drilling mud/bentonite clay materials that may be discharged into the Black River as a result of completing pipeline construction activities at the Site. A remediation plan shall include:

1. A description of the measures taken to manage the discharge during completion of the pipeline construction project, specifically the type of impermeable material to be used in the sandbag structure to capture the bentonite drilling mud and capacity/size of the vacuum pump to ensure it will be able to siphon the materials out of the river;

2. A description of the oversight measures to monitor the activities and decision points where on-site staff, in coordination with OCD and/or Department staff, will shut down or constrain the drilling operation, for example, how to determine when “significant bubbling” is occurring or water quality standards are violated;

3. A description of specific measures taken to clean up any remaining bentonite materials left in the river, not just the material caught within the sandbag structure, including a description of the on-site storage container to be used to collect the vacuumed materials and identification of the off-site disposal facility;

4. A description of the types of materials that eventually will be delivered through the pipe; and,

5. The Respondents’ monitoring plan for the Black River after the remediation is complete. For six months after remediation is complete, the Respondents must monitor monthly for the following water quality parameters: pH, dissolved oxygen, chlorides, sulfates, BTEX, total suspended solids, and total dissolved solids. Based on information provided to the Department in the NOI pursuant to Paragraph 20.c.4 of this Order, the Department may

require the Respondents to monitor for other constituents expected to be present in the materials being transported through the pipeline after the conclusion of remediation. Sample collection and analysis must be done in accordance with approved methods in 20.6.4.14 NMAC.

21. The Respondents shall not resume efforts to pull pipeline through the completed casing until the NOI described above and included remediation plan are approved by the Department.

22. The Respondents shall clean-up the bentonite drilling mud in the Black River until it is effectively gone. The Respondents will use turbidity measurements five to 20 feet upstream of the Site and five to 20 feet downstream of the Site to determine when the bentonite drilling mud is effectively gone. Pursuant to 20.6.4.13(J) NMAC, “[a]ctivities or discharges shall not cause turbidity to increase more than 10 NTU over background turbidity when the background turbidity, measured at a point immediately upstream of the activity, is 50 NTU or less, nor to increase more than twenty percent when the background turbidity is more than 50 NTU.”

23. The Respondents shall copy the Department on OCD reports related to:

- a. analytical results of the water samples;
- b. the lateral extent of the area affected by the release;
- c. corrective actions completed or in progress; and
- d. the nature of actions taken or to be taken.

24. Within 10 days from the receipt of this Order, Respondents shall submit their complete NOI as described above.

25. Within 90 days of receipt of this Order, Respondents shall complete remediation of the Site in accordance with the remediation plan approved by the Department.

26. NMSA 1978, Section 74-6-10(F) provides for a penalty of \$25,000 per day for



each instance of failure to comply with an administrative compliance order issued by the Department.

### **CIVIL PENALTY**

27. NMSA 1978, § 74-1-10 authorizes the Secretary to issue a compliance order assessing a civil penalty for a violation of the Regulations, and the Secretary has delegated this authority to the Director of the Division.

28. NMSA 1978, Section 74-1-10(C) authorizes the Secretary to assess a civil penalty of up to ten thousand dollars (\$10,000) per day for each violation of the Regulations.

29. The Division assesses a total civil penalty in this matter against Respondent of **Twenty Thousand Dollars** (\$20,000) for the above violations.

### **NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING**

30. You may request a hearing by filing a written request for a public hearing with the hearing clerk no later than thirty (30) days after receipt of this Order. The request for hearing shall include an Answer:

a. Admitting or denying each alleged finding of fact. Any alleged finding of fact which is not specifically denied shall be deemed to be admitted. You may assert that you have insufficient knowledge of any alleged finding of fact, and such finding shall be deemed to be denied;

b. Asserting any affirmative defense upon which you intend to rely. Any affirmative defense not asserted in the Answer, except an affirmative defense asserting lack of subject matter jurisdiction, shall be deemed to be waived;

c. Signed under oath or affirmation that the information contained therein is true and correct to the best of the signatory's knowledge; and

d. Attaching a copy of this Order.

31. This Order shall become final upon your receipt of the Order unless you file a Request for Hearing and Answer as set forth above. You may file a Request for Hearing and Answer at the following address:

Hearing Clerk  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502-5469

32. The public hearing shall be governed by the Department's Adjudicatory Procedures, 20.1.5 NMAC (copy attached as Exhibit A).

#### **SETTLEMENT CONFERENCE**

33. You may confer with the Division regarding settlement at any time, but a settlement conference or request for a settlement conference shall not extend or waive the deadline for filing a Request for Hearing or Answer. You may appear at a settlement conference either *pro se* or through legal counsel. The Director of the Division shall execute any settlement as a Stipulated Final Order. A Stipulated Final Order shall resolve all issues raised in this Order, shall bind all parties to this Order, and shall not be appealable. To confer regarding settlement, contact:

Andrew P. Knight, Esq.  
Office of General Counsel  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502-5469  
Telephone: (505) 222-9540

#### **TERMINATION**

34. This Order shall terminate upon the approval of the Director of the Division of a

Stipulated Final Order.

**NEW MEXICO ENVIRONMENT DEPARTMENT  
WATER PROTECTION DIVISION**

BY:   
\_\_\_\_\_  
Rebecca Roose, Director

DATE: 3/20/20

# NEW MEXICO ENVIRONMENT DEPARTMENT SURFACE WATER QUALITY BUREAU

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## NOTICE OF INTENT TO DISCHARGE

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**1. Name of person making the discharge:**

Matador Production Company as operator for Longwood RB Pipeline, LLC, a subsidiary of San Mateo Midstream, LLC

**2. Address of person making the discharge:**

One Lincoln Centre  
5400 LBJ Freeway  
Suite 1500  
Dallas, Texas 75240

**3. Location of the discharge:**

Section 9 of Township 24 South, Range 28 East in Eddy County, New Mexico at coordinates of approximately 32.240150 North Latitude, -104.089572 East Longitude.

**4. Estimate of the concentration of water contaminants in the discharge:**

Not applicable.

**5. Quantity of the discharge:**

Not applicable.

In addition, and pursuant to Paragraphs 20(a), (b), and (c)(1), (2), and (4) of the March 20, 2020 Administrative Compliance Order issued against Matador Production Company (“Matador”) and San Mateo Midstream, LLC (“San Mateo”) (collectively, the “Companies”), the Companies provide the following information:

**Paragraph 20(a) A detailed description of the activity to be conducted, including expected duration of the pipeline construction activity and quantity of material (bentonite drilling mud) to be potentially discharged:**

Matador Production Company, as operator for Longwood RB Pipeline, LLC, a subsidiary of San Mateo Midstream, LLC, is in the process of installing a pipeline underneath the Black River in Section 9 of Township 24 South, Range 28 East in Eddy County New Mexico. Operations are

currently suspended. As of the date hereof, the borehole has been completed, the 30-inch carbon steel casing has been pulled through the borehole to within approximately 200 feet of completing the 1,687 feet crossing of the river.

To complete the casing process, a boring machine located on the north side of the river would pull the casing the remainder of the way through the borehole. It may be necessary to attach a hydraulic hammer (as is common industry practice) to the casing to overcome the friction of the pipe within the borehole to move the casing. No bentonite mud will be used during the process to pull the casing; only freshwater will be used to lubricate the casing. If the use of the hammer is not sufficient to move the casing, Matador Production Company, as operator, may excavate from the existing pad and utilize the existing pipeline right of way to expose the casing, which is approximately 30 feet below the surface.

Excavating the casing should allow the casing to be pulled the remainder of the borehole length. The excavation would then be backfilled. Once the casing is successfully pulled the remaining distance through the borehole, the 20-inch carbon steel pipeline would be pulled through the casing. Such pipeline would be fitted with centralizers to avoid it directly contacting the outer casing. The casing will then be sealed on both ends to avoid dirt and moisture from collecting in the annulus. This will allow the casing to protect the 20-inch pipeline from corrosion or damage that may occur during the life of the pipeline.

If the casing is successfully pulled through the borehole using a hydraulic hammer, Matador Production Company, as operator, would expect to complete the above described operations within approximately two weeks from the time it re-commences operations. The timeframe could be shorter if the casing moves quickly through the borehole; however, it could extend over two weeks if excavation is required.

**Paragraph 20(b) Ongoing monitoring and water quality surveillance that will be conducted while the activities are ongoing.**

This water monitoring and sampling plan is proposed by Longwood RB Pipeline, LLC, a subsidiary of San Mateo Midstream, LLC, to establish water quality and site conditions at specified locations on the Black River. Beginning on Thursday, February 27, 2020, water monitoring and sampling has been conducted one time per each 24-hour period at the locations specified in Table 1 and shown in the attached figure.

Effective on the approved date to re-commence borehole casing activities, daily water quality monitoring and sampling will continue at the six locations along the lower reaches of the Black River. Two new locations will be added for water monitoring, for the duration of the casing activities.

	MONITORING SAMPLING LOCATIONS	MONITORING INTERVAL
1	Approx. 100-feet downstream from the site of the bubbling of the riverbed	24 hours

2	Approx. 300-feet downstream from the site of the bubbling of the riverbed	24 hours
3	Approx. 0.5-miles downstream from site of the bubbling of the riverbed (juncture of Hwy 285 and Black River)	24 hours
4	Approx. 2.5-miles downstream from the site of the bubbling of the riverbed (at approximately the confluence of Black River with the Pecos River)	24 hours
5 (Control)	Approx. 100-feet upstream from the site of the bubbling of the riverbed	24 hours
6 (Control)	Approx. 0.7-miles upstream from the site of the bubbling of the riverbed (juncture of County Road 716/Higby Hole Road and the Black River)	24 hours
7 (Control)*	25-feet upstream from site of bubbling of riverbed	15 minutes
8*	25-feet downstream from site of bubbling or riverbed	15 minutes

\*New sampling locations to be added on first day of commencement of casing activities.

Continued water monitoring at the six original locations will include the following activities:

1. Brief description of current site conditions, including current approximate wind speed, recent precipitation events, water flow, water color and noticeable changes from previous monitoring visits, if any.
2. In-field water monitoring for conductivity, turbidity, total dissolved solids, pH, total suspended solids and chloride, using an Aquatroll 600 by In-Situ.
3. Water sample collection, in accordance with the methods outlined by the references listed in Subsection A of 20.6.4.14 NMAC.
4. Samples will be placed into laboratory-provided containers, preserved on ice, and submitted to a National Environmental Laboratory Accreditation Program (NELAP)-approved laboratory for analysis.
5. The water samples from each location will be analyzed for the following, per guidance provided by the NMOCD and NMED Surface Water Quality Bureau:
  - a. total petroleum hydrocarbons (including diesel range organics, gasoline range organics and motor oil range organics);
  - b. chlorides;

- c. volatile organics (including benzene, toluene, ethylbenzene and xylenes);
  - d. total dissolved solids;
  - e. total suspended solids;
  - f. turbidity;
  - g. pH; and
  - h. sulfate.
6. Laboratory data reports will be compiled and provided as part of the closure reporting process or as directed by the regulatory agencies.

Water monitoring at Sample Locations 7 and 8 will include the following activities:

1. Brief description of any changes in current site conditions, including approximate wind speed, precipitation, water flow, water color or other noticeable changes from previous monitoring, if any.
2. In-field water monitoring for conductivity, turbidity, total dissolved solids, pH, total suspended solids and chlorides using an Aquatroll 600 by In-Situ.

Water monitoring data reports will be compiled and provided as part of the closure reporting process or as directed by the regulatory agencies.

**Paragraph 20(c)(1) A description of the measures taken to manage the discharge during completion of the pipeline construction project, specifically the type of impermeable material to be used in the sandbag structure to capture the bentonite drilling mud and capacity/size of the vacuum pump to ensure it will be able to siphon the materials out of the river.**

Prior to re-commencing borehole casing activities, the area previously identified as bubbling sand and silt will be isolated and contained using a sandbag containment structure, as described below, to prevent downstream movement of solids from the streambed in the location of concern.

In order to mitigate the potential release of sand/silt from and/or into the streambed, the following actions will be implemented:

1. A sandbag structure will be constructed in the stream, enclosing the area of concern, by forming a half-moon shape set against the nearest stream bank. *See* Typical In-Stream Sandbag-Plastic Structure, attached hereto as **Figure 1**.
2. The sandbag structure will be built to a height such that, at minimum, one and one-half rows of sandbags will extend above the water surface.
3. The outside of the sandbags will be lined with a layer of plastic (6-mil) extending from the upstream side of the bank completely around the sandbag wall and back to the downstream bank.

4. A second line of sandbags will be constructed around the plastic, enclosing and securing it between the two walls of sandbags.
5. The second sandbag wall structure will be built to a height equal to or greater than that of the inner sandbag wall, providing some clearance above the current water surface.
6. This sandbag-plastic structure will effectively isolate the area of concern from the remainder of the stream, without impeding the flow of the river.
7. A technician will stand on the bank during the remaining borehole casing operation to observe whether any sand or silt begins bubbling up from the streambed during the planned activities.
8. Any bubbling material and disturbed sand/silt will be entrapped by the sandbag-plastic structure. To the extent necessary, the location and/or orientation of the sandbag-plastic structure may be adjusted to entrap bubbling material.
9. If significant bubbling begins to occur and the structure begins to fill with material, the technician will use a 3x4 trash pump, capable of pumping 300 gallons per minute, and an attached vacuum hose, to siphon out the accumulating material and prevent it from escaping the sandbag-plastic structure. Removed material will be stored in an on-site frac tank pending removal from site and disposal.
10. During borehole casing operations, in the event additional bubbling is observed to commence elsewhere in the streambed in the area of the borehole operation, additional sandbag-plastic structures will be constructed and installed to isolate and contain disturbed sand/silt from the remainder of the stream. Accumulated materials will be siphoned from the additional sandbag-plastic containment structures following the same procedure, as described above.
11. Upon completion of the borehole casing activities, cloudy water or newly suspended material inside the containment structure(s) will be removed using the 3x4 trash pump and vacuum hose. All siphoned material, including that in the frac tank, will be transferred to a licensed trucking operator for disposal at an approved facility off-site (R360).
12. Following completion of the borehole casing activities, the sandbags and plastic will be carefully removed from the stream to prevent dislodging any of the captured sand/silt caught in the sandbag and plastic layers. These materials will be transported from site for disposal at an approved facility, such as R360.

The mitigation structure and pump system will remain in place with continuous technician monitoring for the duration of the casing process.

Only sourced clean and non-contaminated sand will be used in the sandbags forming the sandbag-plastic structure.



During times when the borehole casing operations are active, an environmental technician will conduct water monitoring at fifteen-minute intervals, alternating between a point 25-feet upstream from the potential point of release and 25-feet downstream from the potential point of release. This monitoring will use an In-Situ Aquatroll 600 water monitor, which is capable of collecting location and water quality data, including, but not limited to, conductivity, turbidity, total dissolved solids, pH, total suspended solids and chloride.

In the event that upstream turbidity is determined to be less than 50 nephelometric turbidity units (NTU) and the downstream turbidity increases, such that it exceeds ten nephelometric turbidity units (NTU) over background turbidity levels, or upstream turbidity is determined to be greater than or equal to 50 (NTU) and the downstream turbidity increases such that it is equal to or greater than 20% over background turbidity levels as determined by upstream water monitoring, casing activities will immediately cease until downstream turbidity levels decrease to below 60 NTUs or less than 20% above upstream/background turbidity levels, whichever turbidity limit is applicable.

**Paragraph 20(c)(2) A description of the oversight measures to monitor the activities and decision points where on-site staff, in coordination with OCD and/or Department staff, will shut down or constrain the drilling operation, for example, how to determine when “significant bubbling” is occurring or water quality standards are violated.**

As described above, in response to Paragraph 20(c)(1), an environmental technician will stand on the bank during the remaining borehole casing operation to observe whether any sand or silt begins bubbling up from the streambed during the planned activities.

The technician will monitor to confirm that bubbling material and disturbed sand/silt is being entrapped by the sandbag-plastic containment structure. To the extent necessary, the location and/or orientation of the sandbag-plastic structure may be adjusted to entrap bubbling material.

If significant bubbling begins to occur and the structure begins to fill with material, the technician will use a 3x4 trash pump, capable of pumping 300 gallons per minute, and an attached vacuum hose, to siphon out the accumulating material and prevent it from escaping the sandbag-plastic structure. Removed material will be stored in an on-site frac tank pending removal from site and disposal.

During borehole casing operations, in the event additional bubbling is observed to commence elsewhere in the streambed in the area of the borehole casing operation, additional sandbag-plastic containment structures will be constructed and installed to isolate and contain disturbed sand/silt from the remainder of the stream. Accumulated materials will be siphoned from the additional sandbag-plastic containment structures following the same procedure described above.

An environmental technician will conduct water monitoring at fifteen-minute intervals, alternating between a point 25-feet upstream from the potential point of release and 25-feet downstream from the potential point of release. This monitoring will use an In-Situ Aquatroll 600 water monitor, which is capable of collecting location and water quality data, including, but

not limited to, conductivity, turbidity, total dissolved solids, pH, total suspended solids and chloride.

In the event that upstream turbidity is determined to be less than 50 nephelometric turbidity units (NTU) and the downstream turbidity increases, such that it exceeds ten nephelometric turbidity units (NTU) over background turbidity levels, or upstream turbidity is determined to be greater than or equal to 50 (NTU) and the downstream turbidity increases such that it is equal to or greater than 20% over background turbidity levels as determined by upstream water monitoring, casing activities will immediately cease until downstream turbidity levels decrease to below 60 NTUs or less than 20% above upstream/background turbidity levels, whichever turbidity limit is applicable.

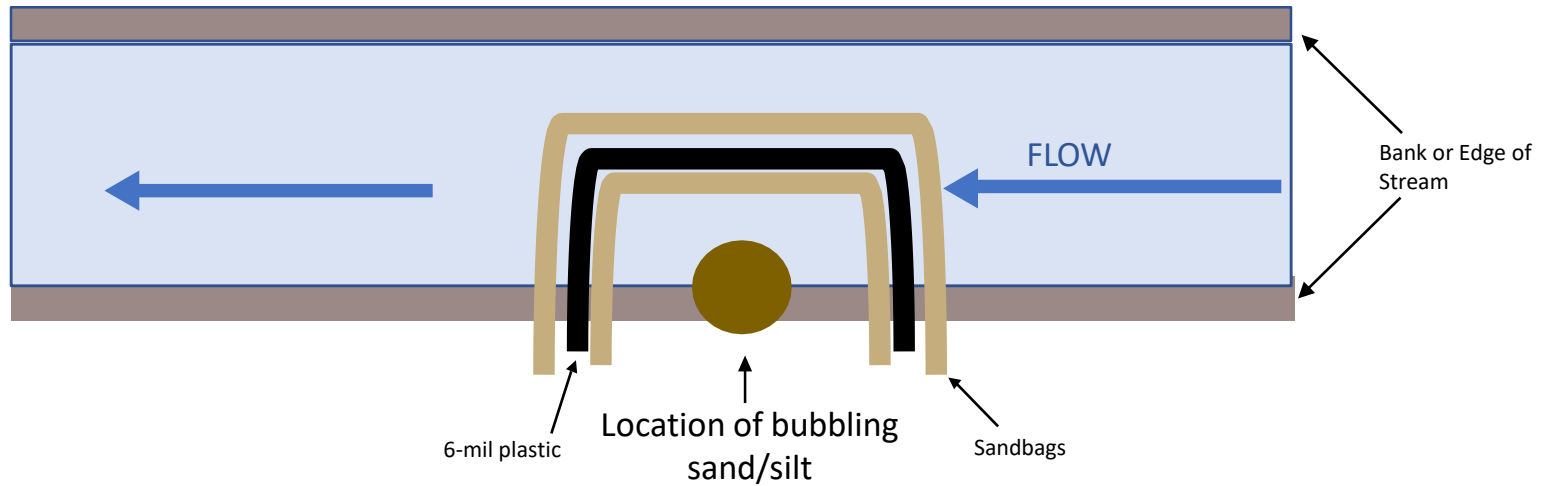
**Paragraph 20(c)(4) A description of the types of materials that eventually will be delivered through the pipe.**

Once completed, the 20-inch carbon steel pipeline will be part of a natural gas gathering system that is expected to deliver natural gas from oil and gas wells to gas processing plants in Eddy County, New Mexico.

14405676\_v1

# FIGURE 1

## Typical In-Stream Sandbag-Plastic Structure



Sandbag-Plastic Structure for Stream Mitigation		
	Drawn: NJ	FIGURE: <b>1</b>
	Approved: NJ	
	Date: Mar 1, 2019	

**From:** [Knight, Andrew, NMENV](#)  
**To:** [Adam Rankin](#)  
**Subject:** FW: San Mateo/Matador: Administrative Compliance Order - Timing of NOI and Remediation Plan submissions  
**Date:** Thursday, March 26, 2020 3:37:23 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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**External Email**

Adam,

See two changes noted in **RED below**. Please know we are happy to take a look at early drafts of the plan and offer comments to facilitate a quick finalization of it.

Andrew

Here's our take away from what we understand the Bureau has agreed to following our conference call today. Please confirm that our understanding is correct or make any corrections/modifications, as appropriate.

- San Mateo/Matador will submit its NOI on Monday, as specified in the ACO;
  - NOI will include the following information as provided in the ACO (in addition to the information required in 20.6.2.1201(C) NMAC):
    - Para. 20(a), detailed description of the activity to be conducted, etc.
    - Para. 20(b), ongoing monitoring and water quality surveillance that will be conducted, etc.
    - Para. 20(c)(1) a description of the measures to be taken to manage the discharge during completion of the pipeline construction, etc.
    - Para. 20(c)(2) description of the oversight measures to monitor activities and decision points, etc.;
    - Para. 20(c)(4) description of the types of materials that eventually will be delivered, etc.
  - In addition, San Mateo/Matador will provide the following information:
    - Para. 19(d) turbidity data, analytical results and any additional sampling plans (i.e., everything that was previously submitted to the OCD)
- San Mateo/Matador will submit no later than April 10, 2020 a remediation plan that will address the following:
  - ACO Paras. 20(c)(3) and 20(c)(5)
  - San Mateo/Matador plans to work with the Bureau by submitting draft remediation plans for review and comment in advance of the April 20, 2020 deadline

## Adam G. Rankin

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## General Information

NMOCD District:	<u>District 2</u>	Incident #:	<u>NM2005959916</u>
Landowner:	<u>Private</u>		
Client:	<u>Matador Production Company</u>	Site Location:	<u>Black River at Ogden Road</u>
Date:	<u>March 24, 2020</u>	Project #:	<u>20E-00239-004</u>
Client Contact:	<u>Casey Snow</u>	Phone #:	<u>(972) 371-5439</u>
Vertex PM:	<u>Natalie Gordon</u>	Phone #:	<u>(505) 506-0040</u>

## Objective

The objective of this environmental remediation work plan is to identify areas of potential concern found during site assessment and monitoring activities and propose appropriate and feasible remediation techniques to address the potential boring mud release at the Black River bore site (hereafter referred to as "Black River"). The alleged incident may have occurred as a result of nearby boring activities exacerbating an underground fissure, allowing the movement of a small amount of boring mud out of the borehole and into the Black River via an anomaly in the streambed. Some light-colored fine sediments are visible on the bottom and edges of the Black River stream bed, extending downstream from the anomaly approximately 264 feet. The location and boundaries of the Black River site are identified on Figure 1 (Attachment 1). Areas of potential concern identified and delineated include the point of potential release and visible color variations potentially representing fine sediments/potential bentonite as mapped on March 25, 2020.

Initial water and soil sampling were conducted on February 24, including samples collected from both upstream and downstream of the alleged release site. Daily water sampling has been conducted since February 27. All water quality standards as outlined in the Standards for Interstate and Intrastate Surface Waters regulation, 20.6.4 *New Mexico Administrative Code* (NMAC) are being met, with the only issue of concern being the potential bentonite/sediment coating a portion of the streambed. Increased sediment and fines on the streambed could possibly adversely affect periphyton and benthic organisms, decrease light availability for organisms in the river, and potentially affect fish gills and/or change their behavior and normal movement within the river ecosystem. While no evidence of these negative effects has been recorded to date, the regulator has recommended that the preferred course of action is to remove the layer of potential bentonite/sediment and fines from the streambed, while limiting an increase in turbidity to less than ten nephelometric turbidity units (NTU) over background turbidity levels, as required by Subsection J of 20.4.4.13 NMAC.

## Site Assessment/Characterization

Following the alleged release reported on February 24, 2020, and the determination to conduct daily water monitoring and sampling, six sample locations were established on the Black River, both upstream and downstream of the alleged release point (Attachment 2). Water samples were collected from these locations one time per each 24-hour period and soil samples were collected from the riverbed or river bank every fourth day. Water samples were submitted to a National Environmental Laboratory Accreditation Program (NELAP)-approved laboratory for analysis of the following parameters: total dissolved solids (TDS); total suspended solids (TSS); turbidity; pH; volatile organics, including benzene, toluene, ethylbenzene, and xylenes (BTEX); total petroleum hydrocarbons (TPH), including motor oil range organics (MRO), diesel range organics (DRO) and gasoline range organics (GRO); and inorganic compounds – chloride and sulfates. Soil samples were analyzed for pH; volatile organics, including benzene, toluene, ethylbenzene, and xylenes (BTEX); total petroleum hydrocarbons (TPH), including motor oil range organics (MRO), diesel range organics (DRO) and gasoline range organics (GRO); and inorganic compounds – chloride and sulfates. Data from this comprehensive sampling regimen are summarized in Table 1 (Attachment 3). The complete lab data reports are included in Attachment 4. None of the analyzed parameters exceeded state water quality standards as a result of this potential incident, with the exception of turbidity levels on February 25, 2020. Following

that one day of elevated turbidity levels, turbidity returned to normal for each of the sampling locations as shown by the trends exhibited for those locations over time. Table 2 and Table 3 (Attachment 3) summarize bi-weekly soil sampling laboratory analyses data and daily water monitoring field data, respectively.

### **Proposed Remedial Activities**

Vertex proposes to remediate areas in the Black River identified as potentially contaminated with bentonite or other fine sediments. The proposed remediation would include removal of potential bentonite accumulations/deposits from the streambed to the extent feasible. Because consistent water monitoring and sampling have not identified any water quality issues and there are no benchmark contamination standards that the river currently exceeds, Vertex proposes that remediation be considered complete when there are minimal visible signs of the introduced material.

Remediation will involve three phases: (1) prevention of downstream movement of potential bentonite or other sediment material; (2) removal of the potential bentonite and other possibly-introduced sediment materials from the streambed; and (3) disposal of the removed material.

#### ***Prevention of downstream movement of potential bentonite/sediment***

Preventative measures to limit any potential movement of bentonite or sediment material downstream from its current location will involve the use of a series of check dams that filter river water through a layer of fine mesh sandwiched between two rows of tightly layered sandbags (Attachment 5). These check dams will be set up across the width of the river at two locations in the remediation area, dividing the area of remediation into three roughly equal sections. Two additional check dams will be set up further downstream, as a safeguard against the downstream migration of solids disturbed by the remediation activities. Specific locations for the check dams will be chosen at the time of remediation and will be dependent on river conditions, including flow rate and depth. The locations for the safeguard check dams will also be chosen at the time of remediation; however, the safeguard check dams will be located not less than 5 feet from the downstream edge of the portion of the riverbed to be remediated, with not less than 5 feet of lateral spacing between each of the dams. An additional set of check-dam structures may be installed at a second downstream location, if river conditions deem that it is warranted.

#### ***Removal of potential bentonite or other sediment material from the streambed***

Removal of the potential bentonite or other fine sediment material from the Black River will involve vacuuming the material from the streambed with the use of a trash pump and vacuum hose. The end of the vacuum hose will be fitted with a filter to prevent the removal of larger items, including river rocks, fish, vegetation or other organisms. The hose will carry removed material(s) to a frac tank for holding, pending removal for disposal at an approved off-site location.

In the event that upstream turbidity (at the sample point 25-feet upstream) is determined to be less than 50 nephelometric turbidity units (NTU) and the downstream turbidity (at the sample point 25-feet downstream) increases such that it exceeds ten nephelometric turbidity units (NTU) over background turbidity levels, or upstream turbidity is determined to be greater than or equal to 50 (NTU) and the downstream turbidity increases such that it is equal to or greater than 20% over background turbidity levels as determined by upstream water monitoring, remediation activities will immediately cease until downstream turbidity levels decrease to below 60 NTUs or less than 20% above upstream/background turbidity levels, whichever turbidity limit is applicable.

#### ***Disposal of the removed material from the Black River site***

Contents of the frac tanks will be transferred into tanker trucks and removed from site for disposal at an appropriate landfill or other site that accepts this type of material, such as R360.

The vacuum hose and trash pumps will be operated and manned by roustabout crew members. A Vertex environmental technician will be onsite during remediation activities to observe removal activities and ensure that the remediation activities and prevention methods are working as expected. For the duration of the remediation activities, the environmental technician will conduct water monitoring at fifteen-minute intervals, alternating between a point 25-feet upstream from the initial potential point of release and 25-feet downstream from the remediation activities. This water monitoring will use an In-Situ Aquatroll 600 water monitor, which is capable of collecting location and various water quality data.

An estimated 20 cubic yards of potential bentonite and additional fine streambed sediment are projected to be removed during remediation.

In addition to water monitoring conducted during remediation activities, daily water sampling will continue during remediation activities and for the seven consecutive days following completion of remediation activities to ensure that surface water quality standards continue to be met. New sampling locations will be determined prior to the commencement of remediation activities.

The water samples will be placed into laboratory-provided containers, preserved on ice and submitted to a NELAP-approved laboratory for analysis. Laboratory analyses for the following parameters will be ordered: TSS, TDS, total dissolved oxygen, pH, turbidity, chlorides, sulfates, volatile organics (BTEX) and TPH.

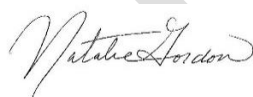
No reclamation or restoration activities are planned at this time as removal of non-introduced materials will be kept to a minimum and the structure and design of the stream are not expected to be altered in any way.

### Timeline for Completion

Remediation activities, as outlined in this work plan, are projected to be completed within 30 days of approval of this work plan by NM OCD.

If there are any questions regarding this report, please contact Natalie Gordon at 505-506-0040.

Sincerely,



Natalie Gordon  
PROJECT MANAGER

### Attachments

- Attachment 1: Black River Site Schematic and Area of Impact
- Attachment 2: Black River Pre-Remediation Daily Sampling Points
- Attachment 3: Summary Tables of Daily Water Sampling and Bi-weekly Soil Sampling
- Attachment 4: Lab Data Reports
- Attachment 5: Check Dam Diagram