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By Water Quality Control Commission at 8:12 am, Jun 30, 2020

**STATE OF NEW MEXICO  
BEFORE THE WATER QUALITY CONTROL COMMISSION**

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

**Complainant,**

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

**v.**

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

**Respondents.**

**ANSWER TO FIRST AMENDMENT TO ADMINISTRATIVE COMPLIANCE ORDER  
REQUIRING COMPLIANCE AND ASSESSING A CIVIL PENALTY**

On April 17, 2020, Pursuant to 20.1.5.200 NMAC, Respondents Matador Production Company (“Matador”) and San Mateo (collectively, “Respondents”) timely requested 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”). Respondents also served and filed an Answer to the ACO on the same date. On June 18, 2020, the Division issued its First Amendment to the ACO, amending Paragraph 25 of the Order. For its Answer to the First Amendment to the ACO, Respondents state as follows:

25. Amended Paragraph 25 purports to impose legal obligations or requirements on Respondents under this First Amendment to the ACO that are contested by Respondents and, therefore, remain unresolved. Respondents dispute the assertion that they have a legal obligation to comply with the deadlines set out in Amended Paragraph 25 when the hearing in this matter will not be heard until September 8, 2020, and when Respondents contest the legal and factual

bases for the Department's approved remediation plan with conditions. Respondents believe that the Department cannot demonstrate at hearing that Respondents were responsible for the alleged turbidity and sedimentation within the river when significant surface runoff and erosion events from other sources, which were observed and documented within the timeframe of the alleged incident, have contributed turbidity and substantial volumes of sedimentation to the river. Further, Respondents believe that the Department cannot demonstrate that sedimentation allegedly caused by Respondents violates the standards within 20.6.4.13(A) or (J) NMAC. Moreover, Respondents may not be able to meet the deadlines imposed by Amended Paragraph 25 due to the resurgence of COVID-19 and the need to implement COVID-safe practices during remediation. Accordingly, assessment of any potential fines pursuant to NMSA 1978, Section 74-6-10 for non-compliance of the ACO, and in particular the deadlines in Amended Paragraph 25, should be stayed, and not accrue, until a final decision by the Commission is entered in this hearing. In response to Amended Paragraph 25, to the extent that any response is necessary, Respondents deny any factual allegations.

Respectfully submitted,

**HOLLAND & HART, LLP**

By: /s/ Adam G. Rankin

Adam G. Rankin

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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 to the First Amended Administrative Compliance Order 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 June 29, 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  
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New Mexico Environment Department  
P.O. Box 5469  
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*/s/ Adam G. Rankin*  
\_\_\_\_\_  
Adam G. Rankin

**From:** [Ortiz, Melayna, NMENV](#)  
**To:** [Amy J. Gross](#)  
**Cc:** [Barnes, Cody, NMENV](#)  
**Subject:** RE: Case No. WQCC 20-16 (CO)\_Answer to First Amended Administrative Compliance Order  
**Date:** Monday, June 29, 2020 12:01:03 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Good Morning Amy Gross,

You may consider this email dated June 29, 2020, a confirmation receipt of the following document:

**ANSWER TO FIRST AMENDMENT TO ADMINISTRATIVE COMPLIANCE ORDER REQUIRING COMPLIANCE AND ASSESSING A CIVIL PENALTY**

Thank you for your understanding and cooperation.

Kind regards,  
Melayna Ortiz

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**From:** Amy J. Gross <AJGross@hollandhart.com>  
**Sent:** Monday, June 29, 2020 11:25 AM  
**To:** Ortiz, Melayna, NMENV <Melayna.Ortiz@state.nm.us>  
**Cc:** Barnes, Cody, NMENV <Cody.Barnes@state.nm.us>; Adam Rankin <AGRRankin@hollandhart.com>; Kaitlyn A. Luck <KALuck@hollandhart.com>; Knight, Andrew, NMENV <Andrew.Knight@state.nm.us>; Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>; Amy J. Gross <AJGross@hollandhart.com>  
**Subject:** [EXT] FW: Case No. WQCC 20-16 (CO)\_Answer to First Amended Administrative Compliance Order

Good morning, Ms. Ortiz. I understand Mr. Barnes is out of the office until tomorrow. Would you kindly confirm receipt of this filing of today's date? A simple email would suffice until Mr. Barnes returns and can file-stamp the document.

Thank you!

**Amy Gross**

Legal Secretary, Holland & Hart LLP  
P.O. Box 2208, Santa Fe, NM 87504-2208  
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**From:** Amy J. Gross <[AJGross@hollandhart.com](mailto:AJGross@hollandhart.com)>

**Sent:** Monday, June 29, 2020 11:02 AM

**To:** Cody Barnes ([cody.barnes@state.nm.us](mailto:cody.barnes@state.nm.us)) <[cody.barnes@state.nm.us](mailto:cody.barnes@state.nm.us)>

**Cc:** Andrew Knight ([andrew.knight@state.nm.us](mailto:andrew.knight@state.nm.us)) <[andrew.knight@state.nm.us](mailto:andrew.knight@state.nm.us)>; Rebecca Roose ([rebecca.roose@state.nm.us](mailto:rebecca.roose@state.nm.us)) <[rebecca.roose@state.nm.us](mailto:rebecca.roose@state.nm.us)>; Adam Rankin ([AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)) <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Kaitlyn A. Luck <[KALuck@hollandhart.com](mailto:KALuck@hollandhart.com)>; Amy J. Gross <[AJGross@hollandhart.com](mailto:AJGross@hollandhart.com)>

**Subject:** Case No. WQCC 20-16 (CO)\_Answer to First Amended Administrative Compliance Order

**NMED Water Protection Division, Surface Water Quality Bureau v. Matador Production Company and San Mateo Midstream LLC; No. WQCC 20-16 (CO)**

Dear Mr. Barnes:

Respondents Matador Production Company and San Mateo Midstream, LLC, respectfully submit for filing the enclosed *Answer to First Amendment to Administrative Compliance Order Requiring Compliance and Assessing a Civil Penalty* in the above matter.

Regards,

Amy Gross

Legal Secretary, Holland & Hart LLP

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