

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**PETITION FOR HEARING REGARDING
ABATEMENT OF EAST BLINEBRY
DRINKARD UNIT**

CASE NO. 26126

ORDER NO. R-24491

**ORDER DENYING APACHE CORPORATION'S APPEAL OF THE
MARCH 12, 2026 NOTIFICATION OF ABATEMENT**

THIS MATTER came before the New Mexico Oil Conservation Division ("OCD" or the "Division") on the Petition and Application for Hearing filed by Apache Corporation ("Apache") appealing the Division's March 12, 2026 Notification of Abatement (the "Notice") for the East Blinebry Drinkard Unit #037 ("EBDU #037" or the "Site"). The Director of the New Mexico Oil Conservation Division ("OCD"), having heard this matter through Hearing Examiners on June 4, 2026, and after considering the testimony, evidence, and recommendation of the Hearing and Technical Examiners, issues the following Order.

FINDINGS OF FACT

1. The Division has jurisdiction over the parties and the subject matter of this proceeding.
2. The EBDU #037 well was constructed in 1963. Prior to Apache's acquisition, Conoco operated the well.
3. Apache acquired the lease and surrounding area encompassing the Site on or about November 1, 1998, and became operator of record on or about April 1, 1999. Apache owned, operated, and controlled the Site and the surrounding area continuously for approximately twenty-six years until it divested its interests to Hilcorp, effective December 31, 2024; Hilcorp became operator of record on or about July 10, 2025.
4. In July 2019, Apache reported a release of produced water at the Site (the "2019 Incident") and undertook soil remediation under 19.15.29 NMAC. The Division approved Apache's work plan, including installation of five groundwater monitoring wells, in December 2019. Apache submitted a closure report for soil remediation on

February 9, 2021, noting that groundwater monitoring remained ongoing. Following continued chloride exceedances in subsequent soil sampling, the Division approved an expanded remediation plan, including seven additional monitoring wells, in August 2021. The parties continued to develop scope-of-work plans through May 2024; a Groundwater Delineation Work Plan Apache submitted in September 2024 was rejected by the Division as inadequate. Apache's February 9, 2021 closure report was expressly limited to soil remediation, and groundwater monitoring continued thereafter pursuant to Division-approved work plans.

5. Apache appealed the Division's determination regarding the adequacy of its groundwater investigation, resulting in Oil Conservation Commission ("Commission") Case No. 24912. On February 19, 2025, the Commission entered Order No. R-23728, finding that the source or sources of groundwater contamination could not then be ascertained at that time and ordering additional investigation. On June 5, 2025 -- before the transfer of operatorship to Hilcorp -- the Commission entered amended Order No. R-23728-A, requiring installation of fifteen groundwater monitoring wells and two soil borings. Apache implemented these requirements both before and after the transfer of operatorship. Apache continued to conduct groundwater monitoring at the Site after the July 10, 2025 transfer of operatorship, pursuant to its agreement with the Division and Order No. R-23728-A.
6. In November 2025, Apache submitted a Field Activity Report to the Division. The Field Activity Report concluded that elevated TDS and chloride concentrations found in the center of the Site, compared to the source area of the 2019 Incident, are not fully explained by the site's groundwater gradient and hydraulic conductivity, and that this pattern "implies the occurrence of other releases from historical operations." The Field Activity Report recommended that Apache develop and submit a semi-annual groundwater monitoring report, which the Division's witness Brittany Hall testified is a component of a Stage 1 abatement plan under Part 30.
7. On March 12, 2026, the Division's Environmental Bureau Chief, Rosa Romero, issued the Notice to Apache, stating that groundwater at the Site had been impacted by oil and gas activity in excess of the standards of 19.15.30.9 NMAC and directing Apache to

submit a complete Stage 1 Abatement Plan. The Notice cited 19.15.30.11 and Subsection A of 19.15.30.14 NMAC as its regulatory basis. Apache responded by letter dated March 31, 2026, disputing its obligation to do so, and timely filed its Petition and Application for Hearing on April 10, 2026.

8. It is undisputed that groundwater at the Site is contaminated with chlorides and total dissolved solids in excess of the standards of 19.15.30.9 NMAC, that this contamination has existed since at least 2019, and that it existed throughout Apache's ownership and operation of the Site.
9. Apache's expert, John Grams, testified that the 2019 produced-water release is not the only source of the broader groundwater plume identified at the Site. Mr. Grams further testified that a 1955-1968 disposal pit identified through aerial photography obtained in April 2025 is "a potential source" and "at least one other potential source" of the observed groundwater impacts. Mr. Grams did not testify, and Apache did not otherwise establish, that the contamination at the Site was caused exclusively by sources or incidents occurring prior to Apache's approximately twenty-six-year tenure. It is more likely than not that releases or disposals occurring during Apache's approximately twenty-six-year tenure contributed to the contamination the Site.
10. Apache's November 2025 Field Activity Report, submitted to the Division as Exhibit F, concluded that anomalous chloride and total dissolved solids concentrations at the Site imply "the occurrence of other releases from historical operations" -- a description not limited to the period predating Apache's 1998 acquisition.
11. Apache conceded at hearing that it cannot determine how, where, or when the contamination at the Site occurred, and Mr. Grams testified that it is "exceptionally difficult to pinpoint the sources of contamination." Apache also conceded that the 2019 release did cause groundwater impacts, and Mr. Grams agreed the area has elevated levels of contaminants of concern from oil and gas activity generally.
12. Ms. Romero and Ms. Hall both testified that Apache was the operator of record for the entirety of the area surrounding the Site for approximately three decades, that groundwater testing results during that period showed contamination in excess of

allowable limits, and that Apache-owned or -operated wells and the legacy disposal pit are both plausible contributors to upgradient contamination migration.

CONCLUSIONS OF LAW

1. "Responsible person" is defined, for purposes of 19.15.30 NMAC ("Part 30"), as "the owner or operator who shall complete a division-approved corrective action for pollution from releases." 19.15.2.7.R(6) NMAC. "Abatement" is defined to include investigation and mitigation of water pollution. 19.15.2.7(A) NMAC.
2. Section 19.15.30.11.B NMAC provides that, in the event of a transfer of ownership, control, or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the abatement plan's duration, and the transferor and transferee may jointly share responsibility to conduct the actions Part 30 requires. This provision contemplates continuing, joint and continuing responsibility of a transferor upon transfer, not automatic relief from responsibility upon transfer of operatorship.
3. Even if a former owner or operator could avoid responsible-person status under Part 30 by proving that groundwater contamination is unrelated to any release or disposal occurring during its period of ownership and operation, Apache did not carry its burden of making that showing by a preponderance of the evidence.
4. Apache's evidence, credible as far as it goes, establishes only that the 2019 Incident is not the sole source of the broader groundwater plume. It did not establish that the 2019 Incident did not contribute at all to the plume; nor did it establish that the plume was caused wholly and exclusively by incidents predating Apache's approximately twenty-six-year period of ownership and operation, from 1998 to 2024. Apache's own Field Activity Report points toward "other releases from historical operations," a period inclusive of Apache's own operational history.
5. The only affirmative alternative source Apache identifies is the 1955-1968 disposal pit revealed by aerial photography. Apache's own witness characterized this only as "a potential source" and "at least one other potential source" – and does not establish that the pit was the exclusive or even the most probably source of the plume. Apache's

inability to identify the origin of the contamination does not satisfy, and instead undermines, its burden to prove that the contamination is completely unrelated to its own period of ownership and operation.

6. Apache has therefore failed to prove, by a preponderance of the evidence, that the groundwater contamination identified in the Notice is unrelated to any release, disposal, or contaminating activity occurring during Apache's ownership, operation, or control of the Site. Therefore, Apache has failed to establish that it is not a responsible person under Part 30 for the groundwater contamination identified in the Notice.
7. In addition, Apache was already conducting groundwater monitoring -- which constitutes abatement under 19.15.2.7(A) NMAC -- pursuant to Commission Order No. R-23728-A, entered June 5, 2025, before the July 10, 2025 transfer of operatorship to Hilcorp. Where an abatement plan was, in substance, already "required or approved" with respect to the Site before the transfer to Hilcorp within the meaning of 19.15.30.11.B NMAC, then Apache's status as a jointly responsible transferor already attached before the transfer occurred, such that the March 12, 2026 Notice served to formalize, rather than retroactively create, an existing joint obligation.
8. The Division was authorized to notify Apache that it is required to submit a Stage 1 Abatement Plan pursuant to 19.15.30.11 and 19.15.30.13.A NMAC, and the Notice was properly issued.

ORDER

IT IS THEREFORE ORDERED THAT:

1. Apache Corporation's appeal and petition in Case No. 26126 is DENIED.
2. Apache shall comply with the Division's March 12, 2026 Notification of Abatement and shall submit a complete Stage 1 Abatement Plan proposal to the Director within sixty (60) days of the date of this Order, or such longer period as the Director may allow for good cause shown pursuant to 19.15.30.13.A NMAC.
3. Jurisdiction on this matter is retained for the entry of such further orders as the Division may deem necessary.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

Albert Chang

**ALBERT C.S. CHANG
DIRECTOR**

Date: 8/13/2026