

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

**APPLICATION OF APACHE CORPORATION
FOR AN ADJUDICATORY HEARING TO
CONTEST THE DIVISION'S CONDITIONS OF
APPROVAL ON APACHE CORPORATION'S
SCOPE OF WORK FOR ADDITIONAL
INVESTIGATION, LEA COUNTY, NEW
MEXICO**

CASE NO. 24912

**OIL CONSERVATION DIVISION'S
PRE-HEARING STATEMENT**

The New Mexico Oil Conservation Division ("OCD") submits this Pre-Hearing Statement pursuant to 19.15.4.13(B) NMAC.

I. IDENTIFICATION OF PARTY AND COUNSEL

OCD has intervened in this matter and is represented by undersigned counsel.

II. STATEMENT OF THE CASE

This matter arises from a release, or releases, first reported to OCD on July 29, 2019, documented in OCD Permitting under Incident number NDHR1922141227. The release(s) occurred at the East Blinbury Drinkard Unit #037 ("EBDU 37"), API 30-025-06556. Apache Corporation ("Apache"), OGRID 873, is the registered operator of the site. OCD initially approved Apache's remediation work plan in December 2019 and received Apache's Remediation Closure Report in February 2021.

Beginning in June 2022, OCD received correspondence from the affected landowner, expressing concern that the remediation and closure plans would permit contamination to remain on-site and potentially impact fresh water. OCD reassessed the sampling data, determined that

additional sampling or remediation may be necessary, and initiated discussions with Apache. From July 2022 to present, OCD has engaged with Apache to fully delineate contamination (primarily chlorides) in the impacted area. With each attempt to further delineation, Apache's reports indicated the potential for additional sources of contamination, a larger area impacted by the reported release, or both.

In April 2024, OCD expressed significant concern that after nearly two years, delineation was not complete and that a more comprehensive delineation plan was necessary. On May 9, 2024, Apache submitted a Scope of Work for Additional Investigation. OCD determined that the proposal was still inadequate to identify sources of contamination and delineate the site, but rather than reject the plan, OCD approved the plan with specific, substantial, conditions of approval ("COAs"). Apache objected to the COAs. The parties discussed further revisions of the plan and COAs, however OCD determined that Apache's submissions would not allow identification of potential sources of contamination or provide adequate delineation. OCD rejected Apache's final submission and notified Apache that it must either comply with the COAs as issued, exercise its reserved right to appeal the COAs, or be subject to enforcement action. Apache appealed the COAs to the Division and the case was referred to the Oil Conservation Commission by the OCD Director.

OCD maintains that a substantial area has been impacted by the release(s), and due to the size and potential complexity of the incident(s), the COAs issued by OCD on July 24, 2024, represent the minimum necessary for adequate delineation of the release(s). Further delineation is necessary to protect public health, the environment, and correlative rights. The COAs are necessary to meet the requirements of, and issued pursuant to 1978 NMSA 70-2-11, 70-2-12 A

(1) & (2), 70-2-12 B (15), and the New Mexico Administrative Code at 19.15.5.11, 19.15.29.8 B, 19.15.29.11 A-C, and 19.15.29.12 A & B NMAC.

III. PROPOSED EVIDENCE

WITNESSES:

1. Brandon Powell, Deputy Director

Mr. Powell is the Deputy Director that manages the OCD's Engineering and Environmental Bureaus. He has served with OCD in various positions for more than 18 years, including district supervisor, staff manager, inspection/enforcement supervisor, and environmental specialist. Prior to joining OCD, Mr. Powell was a facility manager and environmental technician for an environmental services company. Mr. Powell will testify to the basis for the COA's issued by OCD.

2. Rosa Romero, Environmental Bureau Chief

Ms. Romero is the Environmental Bureau Chief that oversees the environmental incidents program, including review and approval of site characterizations, remediation plans, and site closures. Ms. Romero will testify as to the history of the incident and OCD's response.

EXHIBITS:

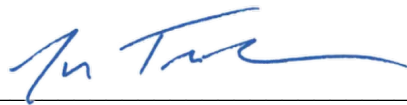
- | | |
|-----------|--|
| Exhibit 1 | Curriculum Vitae of Rosa Romero |
| Exhibit 2 | Presentation of Rosa Romero, Incident Timeline |
| Exhibit 3 | Curriculum Vitae of Brandon Powell |

- Exhibit 4 Presentation of Brandon Powell
- Exhibit 5 Incident Closure Submission, February 9, 2021
- Exhibit 6 Scope of Work for Additional Investigation, May 9, 2024
- Exhibit 7 Additional Groundwater Delineation Work Plan, September 23, 2024

IV. PROCEDURAL MATTERS

The OCD has not identified any procedural matters to be resolved prior to the hearing.

Respectfully submitted,



Jesse Tremaine
Legal Director, Oil Conservation Division
New Mexico Energy, Minerals and
Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
Cell: (505) 231-9312
JesseK.Tremaine@emnrd.nm.gov

CERTIFICATE OF SERVICE

I certify that on January 9, 2025, I served this pleading by electronic mail on:

Sheila Apodaca

Sheila.apodaca@emnrd.nm.gov

Occ.hearings@emnrd.nm.gov

Oil Conservation Commission Clerk

Dalva Moellenberg

Samantha Catalano

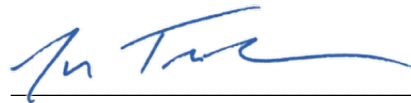
DLM@gk.net

Samanthat.Catalano@gk.net

1239 Paseo de Peralta

Sante Fe, NM 87501-2758

Attorneys for Apache Corporation

A handwritten signature in blue ink, appearing to read "Jesse Tremaine", is written above a horizontal line.

Jesse Tremaine