

**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.**

**RESPONDENTS' IDENTIFICATION OF WITNESSES AND EXHIBITS**

Pursuant to 20.3.1.19(E) NMAC and decretal paragraph 2 in the Hearing Officer's Order of August 7, 2020, Matador Production Company ("Matador") and San Mateo Midstream, LLC ("San Mateo") (collectively, "Respondents") submit the following identification of witnesses, summary of testimony, and exhibits.

**I. WITNESSES**

Respondents may call the following witnesses at hearing on September 8, 2020. A summary of each witness's anticipated testimony is included below.

<b><u>WITNESS</u></b>	<b><u>TITLE</u></b>	<b><u>ADDRESS</u></b>
<b>Matthew V. Hairford</b>	President, San Mateo Midstream, LLC	One Lincoln Centre, 5400 LBJ Freeway, Suite 1500, Dallas, Texas 75240

**Summary of Testimony**

Mr. Hairford's testimony will provide an overview of the operations of Matador Production Company and San Mateo Midstream, LLC, an explanation of the relationship between the two companies, and their commitment to Environmental, Social, and Corporate Governance principles.

Mr. Hairford’s testimony will include an overview of the purpose of the pipeline boring project, the company’s response to the alleged release, and coordination with state regulators to address the incident and determine its nature and scope.

Mr. Hairford will also testify about his experience with bentonite and its uses, his involvement in the incident response, and his observations of the alleged release materials based on his years of experience using bentonite in the field.

<u>WITNESS</u>	<u>TITLE</u>	<u>ADDRESS</u>
<b>Matthew D. Spicer</b>	Chief Operating Officer – Operations, Business Development and Special Projects, San Mateo Midstream, LLC	One Lincoln Centre, 5400 LBJ Freeway, Suite 1500, Dallas, Texas 75240

### **Summary of Testimony**

Mr. Spicer’s testimony will review the nature and purpose of the boring operation performed by S&J Contractors, San Mateo’s response to the alleged release, including steps taken to investigate its nature and scope, and the company’s coordination with state regulators and its environmental contractor, Vertex Resource Group Ltd.

Mr. Spicer will testify that the company’s boring operation was a construction activity that had a limited-duration impact on the Black River’s turbidity, and that the company had all appropriate permits and approvals required for the operation.

Mr. Spicer will also testify about his onsite visits to the Black River during and after the initial response, including his observations and documentation of the physical condition of the river above and below the alleged release location, as well as known and observed sources of erosion and sedimentation.

He will further testify that San Mateo has complied with the approved remediation requirements under the Administrative Compliance Order and that nothing more can be done to accomplish its requirement to achieve an absence or minimal visible signs of bentonite accumulations from within and along the river.

<u>WITNESS</u>	<u>TITLE</u>	<u>ADDRESS</u>
<b>Natalie Gordon</b>	Project Manager, Vertex Resource Group Ltd.	3101 Boyd Drive, Carlsbad, NM 88220

### **Summary of Testimony**

Ms. Gordon will testify on the notifications provided to the state authorities about the potential release, the initial and approved water and soil sampling protocol conducted following the alleged release and the laboratory results of that sampling, the limited-duration turbidity increase and impact of rain events on measured turbidity, the results of chemical tests comparing bentonite boring fluid used during the operation with upstream and downstream sediment samples after the alleged release, and the proposed and approved remediation plan.

Ms. Gordon will testify that the approved remediation requirements apply only to bentonite, but there is no scientific evidence that bentonite was released into the river or that any bentonite deposits exist in the river now, so the purpose of the approved remediation plan has been achieved. She will further testify that removal of naturally occurring limestone caliche is not contemplated by the remediation plan and that it would not be appropriate because the risk of causing adverse impacts to water quality and aquatic life outweigh the benefits of disrupting the river.

<u>WITNESS</u>	<u>TITLE</u>	<u>ADDRESS</u>
<b>Monica Peppin</b>	Environmental Technician, Vertex Resource Group Ltd.	3101 Boyd Drive, Carlsbad, NM 88220

#### **Summary of Testimony**

Ms. Peppin will testify regarding the identification of potential bentonite deposits in the Black River, the protocol and process to collect sediment core samples from potential bentonite deposits for laboratory testing, follow-up visual inspections for potential bentonite deposits from upstream of the alleged release to the confluence with the Pecos River after laboratory testing confirmed the absence of bentonite, and the visual comparison of potential bentonite deposits downstream of the alleged release with sediment deposits upstream of the alleged release, as well as observations regarding streambank erosion associated with those locations.

<u>WITNESS</u>	<u>TITLE</u>	<u>ADDRESS</u>
<b>Dr. Edmund Locke Frost III</b>	Senior Vice President of Geoscience, MRC Energy and affiliates	One Lincoln Centre, 5400 LBJ Freeway, Suite 1500, Dallas, Texas 75240

#### **Summary of Testimony**

Dr. Frost will testify on the geology in the vicinity of the Black River and the site of the alleged release, the presence of naturally occurring limestone caliche in the area, and differences in the composition between bentonite and limestone caliche. Dr. Frost will review the analytical method, known as XRD/XRF testing, used to determine the presence or absence of bentonite in materials and its reliability, and will explain the significance and meaning of the XRD/XRF analysis and conclusions prepared by Impac Labs. Based on his analysis and review of Exhibits F-H, I-K, N-P, S-AA, as well as his understanding of the testimony of San Mateo's other witnesses, Dr. Frost will offer the following opinions:

- The methodology used to identify potential bentonite deposits within the river, to collect sediment core samples, and to test rock types from those samples using XRD/XRF analysis was reasonable and reliable;
- The conclusion that the sediment in the core samples is comprised of limestone caliche, and not bentonite, is reasonable and reliable;
- If bentonite had been released, as alleged in the Administrative Compliance Order, it would be expected to be found in the highest concentrations in sediment deposits closest to the alleged release where the core samples were collected;

- The core sampling and XRD/XRF analysis that was conducted would have, more likely than not, confirmed the presence of bentonite, if bentonite had been released as alleged in the Administrative Compliance Order;
- To the extent any material was released during the boring operations it was, more likely than not, naturally occurring limestone caliche, not bentonite, given the geology and known sources of limestone caliche in the area, the results of chemical sampling, and the analysis of core samples that was done confirming the absence of bentonite; and
- Based on the sampling and analysis that has been done, there is no evidence that bentonite was released into the river or that any bentonite deposits exist in the river now.

Respondents reserve the right to call any other witness to present rebuttal testimony and to support the admission of any exhibit.

## II. EXHIBITS

<b>Exhibit</b>	<b>Title/Description</b>
A	Letter from M. Hairford to J. Griswold, Feb. 28, 2020
B	San Mateo Notification of Potential Release, Feb. 25, 2020
C	NMOCD Letter to San Mateo, Feb. 26, 2020
D	Letter from M. Spicer to J. Griswold, Feb. 27, 2020
E	San Mateo's Boring Fluid
F	Aerial Map of Water and Soil Sample Locations
G	Water and Soil Sample Results, Feb. 27, 2020 through March 25, 2020
H	Comparison of Bentonite Chemistry Analysis to Sediment Soil Samples
I	Videos (2) of upstream sediment runoff during rain event, March 4, 2020
J	Photos of upstream sediment runoff during rain event, March 4, 2020
K	NMDGF Photos, Feb. 25, 2020
L	San Mateo Proposed Remediation Plan, April 8, 2020
M	NMED SWQB Response to Remediation Plan, April 30, 2020
N	Sediment core sample locations, aerial map, and GIS locations, June 30, 2020
O	Impac Labs XRF analysis of sediment core samples

P	Impac Labs XRD analysis of sediment core samples
Q	San Mateo notification to NMED of sediment core sample analysis confirming absence of bentonite, July 8, 2020
R	San Mateo email transmission of Impac Labs quality assurance/quality control information, July 20, 2020
S	Photos of downstream sediment deposits identified during river inspection, July 31, 2020
T	Photos of downstream swimming hole location taken during river inspection, July 31, 2020
U	Data-tagged photos documenting condition of river sediment immediately downstream of alleged release area, Aug. 17, 2020
V	Data-tagged photos documenting condition of river sediment upstream of alleged release area, Aug. 17, 2020
W	Data-tagged photos documenting condition of river sediment approximately midway to confluence with Pecos, Aug. 17, 2020
X	Data-tagged photos documenting condition of river sediment at railroad bridge, Aug. 17, 2020
Y	Aerial Map and photos documenting condition of river sediment approximately 25-75 yards upstream of alleged release, May 27, 2020
Z	NMDGF observations, Feb. 25, 2020
AA	Final Remediation Report with Exhibits, Aug. 20, 2020
AB	Bio Details, Matthew V. Hairford
AC	Bio Details, Matthew D. Spicer
AD	Bio Details, Dr. Edmund L. Frost III <b>[to be replaced with updated curriculum vitae]</b>
AE	Natalie Gordon, M. Sc., BA. B. Acc., Vertex Resource Services, Inc., curriculum vitae
AF	Monica Peppin, Environmental Technician, Vertex Resource Services, Inc., curriculum vitae

Respondents reserve the right to introduce any other exhibit for purposes of rebuttal.

Respectfully submitted,

**HOLLAND & HART, LLP**

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 24, 2020, I filed the foregoing document, with electronic PDF copies of all listed exhibits, with the New Mexico Environment Department Office of Public Facilitation via Electronic Mail to public.facilitation@state.nm.us and further certify that I served it on the following also via Electronic Mail:

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/s/ Adam G. Rankin \_\_\_\_\_  
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