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December 15, 2020

Via EMAIL and HAND-DELIVERY

Honorable Richard Ieyoub
Commissioner of Conservation
Louisiana Department of Natural Resources
617 N. Third Street
LaSalle Building, 9th Floor
Baton Rouge, Louisiana 70802

Re: *Hero Lands Company, L.L.C. v. Chevron U.S.A., Inc., et al.*
25th Judicial District Court, Parish of Plaquemines, No. 64320, Div. "A"
LDNR OC Legacy File No. 025-010-006
LDNR Docket No. 2020-9442-DNR-OOC
Agency No. ENV-2020-L01
Motion *in Limine* to Exclude, in part, Chevron's Limited Admission Plan dated
September 8, 2020

Dear Commissioner Ieyoub:

On behalf of plaintiff, Hero Lands Company ("Hero"), in the above-captioned case, we respectfully submit this appeal from the decision of the Administrative Law Judge Edwin L. Hightower denying Hero's **Motion *in Limine* to Exclude, in part, Chevron's Limited Admission Plan dated September 8, 2020**. For ease of reference, Hero's original motion, the opposition thereto submitted on behalf of Chevron U.S.A., Inc. ("Chevron"), Hero's reply to that opposition, as well as the December 15, 2020 order denying Hero's motion, are all submitted herewith.

As a threshold matter, Hero notes that the administrative hearing in the above-referenced case commenced before the appointed Louisiana Department of Natural Resources ("LDNR") panel on Monday, December 14, 2020. At the outset of that hearing, Judge Hightower took up Hero's motion and, in doing so, Judge Hightower indicated Hero could raise the subject of its motion with the LDNR panel over the course of the hearing. While Hero does intend to do that, Hero respectfully avers that deciding the issue posed on its motion now—before the hearing before LDNR proceeds any further—will promote additional efficiency. In particular, deciding this issue now will firmly define the framework for evaluating the plan for remediation proposed by Chevron. It is for this reason that Hero submits this appeal at this juncture, and without waiving its right or intention to raise the subject of its motion with the LDNR panel over the coming hearing days and as to evidence presented therein.

As to the merits of its motion, Hero avers the importance of the issue posed cannot be too strongly stated. As Hero describes in its attached briefing, the Hero property subject of the LDNR hearing was extensively polluted due to illegal operations conducted by Chevron and its assignees for decades. Over 100 million barrels of produced water were illegally discharged onto the property and into freshwater waterways, and Louisiana's regulators issued numerous compliance orders addressing those operations and requiring remediation that were flatly ignored by Chevron. The legacy of those illegal operations is extensive chloride (salt) and other chemical pollutants in the soil and groundwater on the subject property.

Having been sued, and after pursuing and losing some preliminary defenses in the litigation, Chevron made the decision to partially admit responsibility. As such, now before the LDNR is the task of determining what the plan should be for remediating the property. Chevron's proposed plan includes a request that the LDNR grant an exception from Statewide Order No. 29-B ("SWO 29-B") to apply less stringent standards, which would allow Chevron to leave an extraordinary amount of salt and other chemical pollutants in the soil and groundwater and which would, in turn, effectively save Chevron the expense of cleaning up its own mess.

But, SWO 29-B contains clear provisions that mandate remediation of both the soil and groundwater, and Hero as the landowner has objected to application of any exception from SWO 29-B that would result in application of lesser standards and, thus, contamination remaining on its property. As explained in more detail in the attached, Hero's objection is determinative as a matter of law insofar as provisions of SWO 29-B expressly require landowner consent for deviation from its requirements. As also explained, Hero's objection is determinative as a matter of policy insofar as the Louisiana constitution mandates that "the environment shall be protected, conserved and replenished insofar as possible and consistent with the health, safety and welfare of the people." While Chevron no doubt has an economic interest in the application of lesser standards, it simply cannot be the policy of this State to prioritize the economic interests of polluters over the health and safety of the environment or landowner rights' to decide the fate of their properties.

In sum, any cleanup issued here should at minimum comply with SWO 29-B, without exceptions unless landowner consent for use of any exception is secured. Other state standards should only be applied in the event LDNR concludes cleanup over and above SWO 29-B standards is warranted. For these reasons and those outlined in the briefing submitted herewith, Hero respectfully avers that its motion should have been granted and that all portions of Chevron's Limited Admission Plan dated September 8, 2020 that seek exception from SWO 29-B should be excluded.

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We thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gladstone N. Jones, III". The signature is written in a cursive style with a long horizontal flourish at the end.

Gladstone N. Jones, III