

**EXHIBIT 10**

**Order, denying motion to vacate orders issued  
under disqualification and ratifying stay orders  
(February 3, 2023)**

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

**IN THE MATTER OF THE PETITION FOR  
REVIEW OF THE DECISION OF THE NEW  
MEXICO ENVIRONMENT DEPARTMENT  
ISSUING GROUND WATER DISCHARGE  
PERMIT NO. DP-1132.**

**CONCERNED CITIZENS FOR NUCLEAR  
SAFETY AND HONOR OUR PUEBLO  
EXISTENCE,**

**WQCC NO. 22-21 (A)**

**PETITIONERS,**

**VS.**

**NEW MEXICO ENVIRONMENT  
DEPARTMENT,**

**RESPONDENT.**

**ORDER DENYING PETITIONERS' OPPOSED  
MOTION TO VACATE ORDERS ISSUED UNDER DISQUALIFICATION**

THIS MATTER came before a duly constituted quorum of the Water Quality Control Commission ("Commission") during its regularly scheduled meeting on January 10, 2023, on the opposed Motion by Petitioners Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence ("Petitioners") to Vacate Orders Issued Under Disqualification ("Motion to Vacate Orders") filed on November 4, 2022, moving the Commission to vacate Orders entered in these adjudicatory proceedings while former Commission Chair Stephanie Stringer allegedly "was disqualified by an undisclosed conflicting interest";<sup>1</sup> the Commission duly considered the pleadings and legal memoranda filed by the parties in regard to the Motion to Vacate Orders, as well as the related legal arguments and authorities of law offered by Lindsay Lovejoy, Jr., counsel

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<sup>1</sup> Motion to Vacate Orders, par. 1, pg. 1.

for Petitioners, Lisa Chai, counsel for the New Mexico Environment Department (“Department”), and Jeffrey Wechsler, counsel for Triad National Security, LLC; and having been otherwise sufficiently advised in the premises, the Commission **FINDS**:

1. At times relating to deliberations and decisions of the Commission, acting as a duly constituted public body, on then pending petitions or motions filed by Petitioners, Stephanie Stringer, as both Commission Chair and the statutory designee of the Department’s Cabinet Secretary on the Commission,<sup>2</sup> participated in those deliberations and decisions while seeking employment and subsequently obtaining a salaried position with the National Nuclear Security Administration (“NNSA”), an agency of the United States Department of Energy (“DOE”).<sup>3</sup>

2. On August 30, 2022, a duly constituted quorum of the Commission issued its Order on Motion to Stay Proceedings Pending Resolution of Related Adjudication (“Order on Motion to Stay Proceedings”), ordering that the adjudicatory proceedings before the Commission on the Verified Petition for Review on Behalf of Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence (“Petition for Review”) filed on June 6, 2022, be stayed pending resolution of the related adjudicatory proceeding, *In re: U.S. Department of Energy and Triad National Security, LLC*, Docket No. NM0028355, NPDES Appeal No. 22-01 (05/02/2022), before the U.S. Environmental Protection Agency’s Environmental Appeals Board.

2. On November 14, 2022, after Ms. Stringer was no longer Commission Chair or a sitting

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<sup>2</sup> See, NMSA 1978, § 74-6-3(A)(1) (2007).

<sup>3</sup> The dates stipulated to by the parties relative to Ms. Stringer’s employment with the NNSA are:

1. Date Ms. Stringer’s application was submitted via the USAJOBS portal: August 7, 2022.
2. Date the NNSA hiring official received access to the certification list, which would have contained Ms. Stringer’s name among the list of candidates: August 12, 2022.
3. Date of Ms. Stringer’s job interview: August 23, 2022.
4. Date of the NNSA’s initial offer to Ms. Stringer: August 31, 2022.
5. Date of Ms. Stringer’s onboarding: November 6, 2022.

member of the Commission, a duly constituted quorum of the Commission issued its Order Denying Opposed Motion to Vacate Stay of Proceedings, in effect reaffirming and ratifying the stay of proceedings issued under its previous Order on Motion to Stay Proceedings.

3. There has been no decision-making by the Commission, with or without Ms. Stringer's participation, concerning the issues raised in the Petition for Review or the administrative relief properly requested in that Petition,<sup>4</sup> so as to deny Petitioners due process under the law such as would require vacating the previous Orders issued by the Commission staying these adjudicatory proceedings pending resolution of the related adjudicatory proceeding.

4. Those previous Orders issued by the Commission on August 30, 2022, September 16, 2022, and November 14, 2022, respectively, should be reaffirmed and ratified.

Based on the foregoing Findings, **IT IS ORDERED:**

A. The Motion to Vacate Orders is denied.

B. All previous Orders issued by the Commission staying these adjudicatory proceedings are reaffirmed and ratified.

C. Petitioners' request in open Commission meeting for sanctions against the DOE and the NNSA is denied.

Dated this 31 day of January, 2023.



David Sypher, Acting Chair  
Water Quality Control Commission

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<sup>4</sup> Order Granting Request for Permit Review and Appointing Hearing Officer, par. 1, pg. 1, docketed on August 30, 2022. See, <https://www.env.nm.gov/opf/docketed-matters/>.

Certificate of Service

I hereby certify that on February 3, 2023 a copy of the foregoing **Order** was emailed to the persons listed below. A copy will be mailed first class upon request.

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