

EXHIBIT 3

**Order, denying motion to reverse issuance of DP-1132,
lack of subject matter jurisdiction
(September 16, 2022)**

**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 OPPOSED MOTION TO REVERSE ISSUANCE OF DP-1132
FOR LACK OF SUBJECT MATTER JURISDICTION**

THIS MATTER came before the Water Quality Control Commission (“Commission”) during its regularly scheduled meeting on September 13, 2022, on the opposed Motion on Behalf of Petitioners Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence to Reverse the Issuance of DP-1132 for Lack of Subject Matter Jurisdiction (“Motion to Reverse Issuance of DP-1132”) filed on August 12, 2022, by Petitioners Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence (together, “Petitioners”), seeking an order from the Commission reversing the issuance of DP-1132 for lack of subject matter jurisdiction under the Water Quality Act, §§ 74-6-1 to -17 (1967, as amended through 2019), and on the separate Responses to the Motion to Reverse Issuance of DP-1132 of the New Mexico Environment Department (“Department”) and Triad National Security, LLC (“Triad”) filed on August 29, 2022, and on the Reply Brief of Petitioners filed on September 12, 2022; the Commission duly considered the

parties' pleadings and the related legal arguments and authorities of law offered by Lindsay Lovejoy, Jr., counsel for Petitioners, Christopher Atencio, counsel for the Department, and Jeffrey Wechsler, counsel for Triad, and having been otherwise sufficiently advised in the premises, the Commission **FINDS**:

1. Petitioners invoked the Commission's subject matter jurisdiction under the Water Quality Act in filing on June 6, 2022, their Verified Petition for Review on Behalf of Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence ("Petition for Review") before the Commission "pursuant to [NMSA 1978, § 74-6-5(O) (2009) and 20.1.3.16(A) NMAC], seeking review of the issuance by the [Department] of ground water discharge permit No. DP-1 132,"¹ as parties adversely affected by permitting action of a constituent agency of the Commission.

2. In the exercise of that subject matter jurisdiction, the Commission on August 30, 2022, entered 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 Petition for Review 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.

3. At no time subsequent to the issuance of the Order on Motion to Stay Proceedings did Petitioners seek a lift or modification of the stay of the adjudicatory proceedings before the Commission, nor did they challenge or otherwise seek relief from that stay, either before the Commission or in any other administrative or judicial forum.

¹ Petition for Review, page 1, paragraph 1.

4. Other good and sufficient cause exists for the denial of the Motion to Reverse Issuance of DP-1132.

Based on the foregoing, **IT IS ORDERED** that the Motion to Reverse Issuance of DP-1132 be, and it hereby is, denied in its entirety.

Dated this 15th day of September, 2022.

Stephanie
Stringer

Digitally signed by Stephanie
Stringer
Date: 2022.09.15 21:56:27 -06'00'

Stephanie Stringer, Chair
Water Quality Control Commission

Certificate of Service

I hereby certify that on September 16, 2022 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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