

EXHIBIT 7

**Order, granting appeal
(August 30, 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 GRANTING REQUEST FOR PERMIT REVIEW
AND APPOINTING HEARING OFFICER**

THIS MATTER came before the Water Quality Control Commission (“Commission”) during its regularly scheduled meeting on August 9, 2022, on the Verified Petition for Review on Behalf of Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence (“Petition”) filed on June 6, 2022, by Petitioners Concerned Citizens for Nuclear Safety and Honor Our Pueblo Existence (jointly, “Petitioners”), pursuant to NMSA 1978, § 74-6-5(O) (2009) and 20.1.3.16(A) NMAC,¹ and facially “seeking review [before the Commission] of the issuance by the New

¹ While Petitioners cite 20.1.3.16(A) NMAC, setting forth the requirements for initiation and conduct of a permit review, they assert in their Petition that their remedy is for the Commission “to remand [the] matter to [the Department] for further proceedings, including the submission of a revised Hearing Officer’s Report to the [NMED] Secretary, action by the Secretary on that Report, and the Secretary’s responses to public comments.” Petition ¶ 47, page 21; Petition, Conclusion, page 21. (Emphasis supplied.) 20.1.3.16(A)(3) NMAC provides: “A party may request the [C]ommission to remand the matter to the [D]epartment. A request for remand must be filed simultaneously with the permit review petition. If a party shows to the satisfaction of the [C]ommission that there was no reasonable opportunity to submit comment or evidence on an issue being challenged, the [C]ommission shall order that additional comment or evidence be taken by the [D]epartment. Based on the additional evidence, the [D]epartment may revise

Mexico Environment Department (“Department”) of [G]round [W]ater [D]ischarge [P]ermit No. DP-132” issued on May 5, 2022, by the Department’s Water Protection Division Acting Director² to the U.S. Department of Energy and Triad National Security, LLC (“Triad”) for the Los Alamos National Laboratory’s Radioactive Liquid Waste Treatment Facility;³ the Commission duly considered the Petition and the related legal arguments and authorities of law offered by Lindsay Lovejoy, Jr., counsel for Petitioners, John Verhuel, counsel for the Department, and Jeffrey Wechsler, counsel for Triad, and having been otherwise sufficiently advised in the premises, the Commission thereafter determined that a permit review should be held in accordance with the Commission’s adjudicatory procedures at 20.1.3 NMAC, as ordered below.

IT IS THEREFORE ORDERED:

1. Petitioner’s request for a permit review before the Commission is granted, subject to (a) the scope of the administrative relief properly requested in the Petition, and (b) the Order on Motion to Stay Proceedings Pending Resolution of Related Adjudication entered in the docket on this matter, staying the Commission’s adjudicatory proceedings on the Petition pending resolution of the related adjudication, *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 Environmental Appeals Board of the U.S. Environmental Protection Agency.⁴

2. The ensuing permit review shall be held during a regularly scheduled meeting of the Commission in accordance with 20.1.3.16 NMAC, both in-person and using a WebEx virtual

the decision and shall promptly file with the [C]ommission the additional evidence received and the action taken.” Petitioners further assert in their Petition that “review by [the] Commission may proceed,” *after* remand pursuant to NMSA 1978, § 74-6-5(R) (2009). Petition ¶ 47, page 21; Petition, Conclusion, page 21. (Emphasis supplied.)

² Petition ¶ 2, page 1; Petition Attachment.

³ Petition, ¶ 1, page 1.

⁴ See, https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Active+Dockets.

meeting platform; the permit review may be continued thereafter if the Commission deems it necessary.

3. Public notice of the permit review shall be provided to the public pursuant to 20.1.3.16(C) NMAC.

4. The permit review shall be conducted in accordance with the Commission's adjudicatory procedures at 20.1.3 NMAC, specifically those at 20.1.3.16 NMAC for a permit review.

5. The Commission may choose to deliberate immediately following the conclusion of the permit review or at a subsequent Commission meeting, and shall render its decision consistent with 20.1.3.16(F)(3) NMAC and governing law.

6. Pursuant to 20.1.3.10(B) NMAC, the Commission appoints Gregory Chakalian as the hearing officer to review the record and the arguments of the parties and to recommend a decision to the Commission, with all other powers and duties as may be prescribed or delegated by the Commission under the Water Quality Act, NMSA 1978, §§ 74-6-1 to -17 (1967, as amended through 2019) and 20.1.3 NMAC, including all functions and measures under 20.1.3.10(B)(2) NMAC.

7. In accordance with 20.1.3.10(C) NMAC, the hearing clerk for the Commission shall notify the parties of the name and address of the hearing officer. The hearing clerk shall also, at that time, forward to the hearing officer copies of all documents filed to date.

Dated this 29th day of August, 2022.

Stephanie Stringer
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Date: 2022.08.29 16:32:41 -06'00'

Stephanie Stringer, Chair
Water Quality Control Commission

Certificate of Service

I hereby certify that on August 30, 2022 a copy of the foregoing **Order** was emailed to the persons listed below. A copy will be mailed first class upon request.

Lindsay Lovejoy, Jr.
3600 Cerrillos Road Unit 1001A
Santa Fe, NM 87507
lindsay@lindsaylovejoy.com

Silas DeRoma
US Department of Energy
3734 West Jemez Road MS-A316
Los Alamos, NM 87544
Silas.deroma@nnsa.doe.gov
Counsel for US DOE and Triad National Security, LLC

Maxine M. McReynolds
Christopher C. Stoneback
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, NM 87545
mcreynolds@lanl.gov
stoneback@lanl.gov

Jeffrey J. Weschler
Kari E. Olson
Diana Luna
Teresa Pacheco
Montgomery & Andrews
P.O. Box 2307
Santa Fe, NM 87504-2307
jwechsler@montand.com
kolson@montand.com
Dluna@montand.com
tpacheco@montand.com
Counsel for Triad National Security, LLC

Christopher Atencio
Lisa Chai
New Mexico Environment Department
121 Tijeras Ave, NE #1000
Albuquerque, NM 87102
Christopher.Atencio@state.nm.us
Lisa.Chai1@state.nm.us
Counsel for the New Mexico Environment Department

Robert F. Sanchez
New Mexico Office of the Attorney General
408 Galisteo St.
Santa Fe, NM 87501
rfsanchez@nmag.gov
Counsel for the Water Quality Control Commission

Pamela Jones

Digitally signed by Pamela Jones
Date: 2022.08.30 09:38:04 -06'00'

Pamela Jones, Commission Administrator
Water Quality Control Commission
Phone: (505) 660-4305
Email: Pamela.Jones@state.nm.us