

EXHIBIT 9

**Order, containing schedule for proceedings
(February 1, 2023)**

RECEIVED

Pamela Jones

By Water Quality Control Commission at 11:10 am, Feb 01, 2023

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

IN THE MATTER OF:

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

WQCC No. 22-21(A)

**CONCERNED CITIZENS FOR NUCLEAR SAFETY &
HONOR OUR PUEBLO EXISTENCE,
Petitioners.**

SCHEDULING ORDER

This matter came before the Hearing Officer on Petitioners' Notice of Issuance of Environmental Appeals Board Order filed January 4, 2023, and the Commission's Order Denying Petitioners' Opposed Motion to Vacate Orders Issued under Disqualification filed on January 19, 2023, and informed by the third status conference held with all parties in attendance on January 19, 2023, and being otherwise fully apprised in the matter, **FINDS:**

1. On June 6, 2022 Petitioners filed Verified Petition for review under 20.1.3 NMAC and NMSA 1978, Section 74-6-5(O).
2. On July 18, 2022, Petitioners filed their Opening Brief in accordance with 20.1.3.16 NMAC.
3. On August 30, 2022, the Water Quality Control Commission (WQCC) granted Permittee's motion to stay proceedings pending the resolution of related adjudication before the Environmental Appeals Board (EAB) based in part on the representations that the legal issue of consequence would be finally decided within

a relatively short period of time, thus promoting administrative economy, and avoiding duplication and related costs.

4. On December 28, 2022, the EAB issued Remand Order to the U.S. Environmental Protection Agency Region 6 to provide the public with an opportunity to comment on the Outfall 051 2021 discharge data, to consider any comments received, and to revise its Response to Comments documents and take further action in reissuing its permit decision.
5. At the January 19, 2023 status conference, the parties agreed that the Remand Order creates a substantial delay in the resolution of the concurrent litigation before the EAB, an order lifting the stay is appropriate under the circumstances, and the Hearing Officer has the authority to grant this relief under 20.1.3 NMAC and the Order Appointing Hearing Officer filed August 30, 2022.

IT IS THEREFORE ORDERED:

1. Pursuant to 20.1.3 NMAC and NMSA 1978, Section 74-6-5, the evidentiary record on appeal is closed and consists solely of the administrative record as filed in the Office of Public Facilitation. Parties shall not introduce new evidence in their briefings, at oral argument, or in their post-hearing submissions.
2. The oral argument in this matter shall be held via the WebEx platform and commence immediately following the regular WQCC business on the April 11, 2023 agenda.
3. Each party shall have forty-five (45) minutes to present oral argument and stand for questions from the Commissioners. It is permissible to use any document in the administrative record and/or a demonstrative exhibit served on the opposing parties.

4. At oral argument the parties will present their cases to the Commission in the following order: Petitioners followed by any party in support, the Department followed by any party in support.
5. The following deadlines are in effect going forward:
 - a. Petitioners shall inform the Hearing Officer and other parties of their intent to amend their Opening Brief on or before January 25, 2023.
 - b. Petitioners' amended brief (if any) shall be filed on or before February 19, 2023.
 - c. The Department and any party in support shall file answer briefs within 25 days of February 19, 2023.
 - d. Petitioners and any party in support shall file their reply brief within 10 days of the Department's answer.
6. The Bureau shall prepare and send the necessary public notice for the hearing in English and in Spanish. The notice shall be published no later than 30-days prior to the April 11, 2023 oral argument pursuant to 20.1.3.16.C NMAC.
7. The Bureau shall provide the means to fully participate in the public hearing for individuals who speak Spanish and for the hearing-impaired.
8. The Hearing Clerk shall record the oral argument. Any party may, at its own expense, have the oral argument transcribed verbatim which shall become the official record.
9. The Commission may deliberate and decide the issue after the oral argument. However, the Commission may also direct the Hearing Officer to draft a report and recommended decision.

10. Post-oral argument procedure and deadlines:

- a. The Hearing Clerk shall file a notice of transcript.
- b. The parties shall file their closing arguments, proposed findings of fact and conclusions of law no later than 30 days after the notice of transcript is filed.
- c. The Hearing Officer shall provide the parties with a draft report and draft recommended decision approximately 30 days thereafter.
- d. The parties shall file their comments and exceptions to the draft report and decision within 15 days thereafter.
- e. The Hearing Officer shall provide the Commission within 7 days a final report and recommended decision for their deliberation at the next regularly scheduled meeting.

**Gregory
Chakalian** Digitally signed by
Gregory Chakalian
Date: 2023.02.01
10:46:38 -07'00'

Gregory Chakalian,
Administrative Law Judge
Office of Public Facilitation

Certificate of Service

I hereby certify that on 2-1-23 a copy of the foregoing **Scheduling Order** was emailed to the persons listed below. A copy will be mailed first class upon request.

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