



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 16, 2023

Ashley Kegley-Whitehead
Chief Communications & Government Affairs Officer
Infinity Water Solutions
1250 South Capital of Texas Highway
Austin, TX 78746

RE: Response to Produced Water Pilot Project Notice of Intent; Discharge Permit Not Required for Infinity Water Solutions

Dear Ashley Kegley-Whitehead

The New Mexico Environment Department (NMED) received a Produced Water Pilot Project Notice of Intent (PW-NOI) from you on February 27, 2023, and a revised NOI on September 19, 2023, regarding the proposed pilot project for treated produced water research at the Battle Axe Ranch for Infinity Water Solutions. The proposed pilot project is located at 2430 Battle Axe Road, approximately 21 miles west of Jal, New Mexico, in Section 22, Township 26S, Range 33E, Lea County.

The notice satisfies the requirements of Subsection A of 20.6.2.1201 NMAC, Ground and Surface Water Protection Regulations (20.6.2 NMAC).

The PW-NOI identifies the pilot project details as follows:

Produced water will be pre-treated at Infinity's Mills Ranch Recycling facility, and then transported to Texas Tech University. There the treated produced water will be further processed through desalination treatment, and transported to the Battle Axe Facility, where it will be stored for use on growing a non-consumptive hemp crop. Infinity will grow the hemp crop in above-ground grow boxes that are closed-loop. Following testing, Infinity will dispose the crop in a certified landfill facility. The amount of treated produced water used in the pilot project will be approximately 100 barrels or 4,200 gallons.

Based on the information provided in your PW-NOI, NMED has determined that NMED is not requiring a Discharge Permit if the discharge occurs as described. A Discharge Permit is not required at this time because the information provided indicates the pilot project will be conducted in a manner that will not result in treated produced water directly or indirectly moving into ground or surface water.

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Ground Water Quality Bureau | 1190 Saint Francis Drive, PO Box 5469, Santa Fe, New Mexico 87502-5469

Telephone (505) 827-2900 | www.env.nm.gov/gwqb/

Although NMED is not requiring a Discharge Permit for this facility at this time, this does not relieve you of your liability should your operation result in actual pollution of surface or groundwater. Further, this decision by NMED does not relieve you of your responsibility to comply with any other applicable federal, state, and/or local laws and regulations, zoning requirements, plumbing codes, and nuisance ordinances.

If at some time in the future you intend to change the pilot project location, processes, scope, or plan in any way you must file a revised PW-NOI with NMED. If NMED determines that you are conducting the pilot project in a manner other than as described in your PW-NOI, you must file a revised PW-NOI with NMED and you may be subjected to an enforcement action by NMED.

This determination is pursuant to WQCC Regulation 20.6.2.3106.B NMAC, and the NMED Delegation Order dated March 24, 2021, through which the Cabinet Secretary has delegated this authority to sign responses to a NOI to discharge to the Chief of the Ground Water Quality Bureau. If you have any questions, please contact either Kathleen Murphy at (505) 660-7567 or Jason Herman, Program Manager of the Ground Water Pollution Prevention Section, at (505) 827-2962 or submit an email to pps.general@state.nm.us.

Sincerely,



Justin D. Ball, Chief
Ground Water Quality Bureau

JB: KM

- cc: John Rhoderick, WPD Division Director, NMED
- Kathryn Becker, Tribal Liaison, NMED
- Andrew Knight, Assistant General Counsel, NMED
- Jason Herman, Program Manager, GWQB PPS, NMED
- Susan Lucas-Kamat, Program Manager, SWQB PSR
- Produced Water No DP Required File
- Dylan Fuge, Division Director, OCD EMNRD
- Jim Griswold, Special Projects Manager, OCD EMNRD
- Patricia Sullivan, Director, NMPWRC - NMSU
- Mike Hightower, Manager, NMPWRC - NMSU