

November 29th, 2023

New Mexico Environment Department
Harold L. Runnels Building
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

To whom it may concern,

Element3 Resources, a pioneering leader in sustainable resource extraction, appreciates the opportunity to provide feedback on the proposed legislation concerning Prop. 20.6.8 NMAC: Supplemental Requirements for Water Reuse, including Produced Water. As an environmentally conscious entity committed to advancing technology and innovation, we believe that the responsible management of water resources is integral to the future of our industry. It is essential to comment on this proposition for the knowledge of the drafting body.

Our company specializes in the extraction of critical minerals and materials from oil and gas wastewater, with a primary focus on lithium. We recognize the importance of harnessing emerging technologies to meet the growing demand for these essential resources while simultaneously addressing environmental concerns. Our proprietary extraction processes contribute to the supply chain of critical materials crucial for modern technologies and prioritize environmental sustainability.

We are not currently operating in New Mexico but are exploring sourcing produced water from oil and gas operators in the state. It is crucial to emphasize that our operations follow a closed-loop, borrow-and-return model for resource extraction. We temporarily utilize produced waters to extract valuable minerals, including lithium, and return the water to its original ownership entity. This approach ensures responsible and ethical water usage, aligning with the broader goals of water conservation and environmental stewardship. We utilize a circular economic approach and zero-water discharge model of operations. Element3 does not use produced water for any other means than extracting critical minerals and materials.

We fully support legislative efforts that promote the sustainable management of water resources and address the challenges associated with produced waters. We believe that through collaborative efforts between industry stakeholders and policymakers, we

can establish a regulatory framework that fosters innovation, economic growth, and environmental responsibility.

In conclusion, Element3 applauds the state's commitment to advancing water reuse practices and managing produced waters responsibly. We look forward to continued collaboration with regulatory bodies to ensure that our industry remains at the forefront of sustainability and contributes positively to the economic and environmental well-being of New Mexico.

Thank you for considering our perspective as you work towards shaping the future of water management in the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Hood Whitson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Hood Whitson
C.E.O., Element3

Proposed Regulatory Comments to Follow.

20.6.8.7 Definitions:

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C. Terms Beginning with The Letter “C”.

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(9) “Critical Minerals” means those minerals identified by the Secretary of the United States Department of Interior in 87 FR 10381 (2022).

(10) “Critical Minerals Facility” means a facility designed to extract critical minerals using a closed-loop system where the produced water from whatever source is cycled through the facility and returned to said source without any discharge of produced water from such facility.

20.6.8.400 PRODUCED WATER REUSE:

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E. Critical Mineral Extraction

(1) Persons who are engaged in the extraction of critical minerals from produced water using a critical minerals facility are exempt from the requirements of Title 20, Chapter 6, Part 8

(2) Persons who are engaged in the extraction of critical minerals from produced water using a critical minerals facility shall, prior to commencing operations:

(a) Provide notice to the Department of the following:

- (i) The location of the critical minerals facility;
- (ii) The identity of the critical mineral or minerals being extracted;
- (iii) The source of the produced water; and
- (iv) The volume of produced water being cycled through the critical minerals facility

(b) Certify to the Department that the facility for extraction of critical minerals meets the requirements of 20.6.8.400 E.(1).

(3) Nothing in this 20.6.8.400 E shall be construed as an exemption from any other regulations of the Department applicable to the design or operation of a critical minerals facility.