

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

IN THE MATTER OF:)
THE PETITION FOR A HEARING ON)
ORDER OF THE SECRETARY)
REMANDING FOR CONSIDERATION OF)
FINANCIAL ASSURANCE FOR GROUND)
WATER DISCHARGE PERMIT (DP-1132))
FOR THE RADIOACTIVE LIQUID WASTE)
TREATMENT FACILITY)
)
THE UNITED STATES DEPARTMENT)
OF ENERGY, TRIAD NATIONAL)
SECURITY, LLC,)
)
Petitioners.)
_____)

WQCC No. 20-39(A)

**JOINT MOTION OF THE UNITED STATES DEPARTMENT OF ENERGY,
TRIAD NATIONAL SECURITY, LLC AND THE NEW MEXICO
ENVIRONMENT DEPARTMENT FOR STAY OF THE PROCEEDINGS**

Pursuant to 20.1.3.15 NMAC, Petitioners, the United States Department of Energy (“DOE”) and Triad National Security, LLC (“Triad”) (collectively “DOE/Triad” or “Petitioners”), together with respondent the New Mexico Environment Department (“Department”), jointly move for a stay of the proceedings in this matter, including an abeyance of all pending deadlines.

As grounds for this Joint Motion, Petitioners and the Department state as follows:

1. On November 14, 2019, a public hearing before the Secretary of Environment (“Secretary”) was held on the draft groundwater discharge permit DP-1132 (“Draft DP-1132”). A Revised Hearing Officer’s Report and Proposed Findings of Fact and Conclusions of Law was filed on March 4, 2020.

2. On June 24, 2020 the Secretary issued an Order Remanding for Consideration of Financial Assurance (“Order”). The Order remanded the proceeding to the Department’s Ground Water Quality Bureau (“Bureau”) “for the purpose of considering the types and levels of financial

assurance that should be applied to DP-1132.” The Order further directed the Bureau to “publish notice(s) of its financial assurance proposal related to DP-1132 in accordance with 20.6.2 NMAC and 20.1.4 NMAC [...] and provide for public participation and a hearing, if requested.”

3. On July 17, 2020 DOE/Triad filed the Petition for Review herein to ensure they timely and fully preserve their right of appeal to the Water Quality Control Commission (“Commission”) and to allow for the exhaustion of their administrative remedies in case it becomes necessary hereafter for Petitioners to pursue any judicial appeals.

4. DOE/Triad and the Department agree that their efforts to achieve a resolution of the dispute arising from the Secretary’s Order will be better focused and more likely to succeed if the parties are not attempting to simultaneously participate in this appeal or any other formal processes arising from the remand mandated by the Order.

5. Due to the procedural and briefing deadlines in this case that would normally arise without a stay, considerable uncertainties regarding the time that may be required to resolve this matter, and the parties’ desire to avoid having to invoke the Commission’s attention to future extension motions, DOE/Triad and the Department respectfully request the Commission to stay this proceeding, holding all of the deadlines in this appeal in abeyance indefinitely, subject to a right of DOE/Triad or the Department to jointly or independently bring a motion to reinstate new deadlines in the proceeding.

6. Neither DOE/Triad nor the Department will be prejudiced by the Commission staying the proceedings and holding deadlines in abeyance as requested herein, whereas providing the requested abeyance relief will conserve the attention and resources of the parties and Commission in the short term, and may as well in the long term.

7. Any resolution between DOE/Triad and the Department will result in public notice and the opening of a public comment period and opportunity for a public hearing on any financial assurance proposal related to DP-1132 pursuant to NMSA 1978, Section 74-6-5 and 20.6.2.3108 NMAC.

WHEREFORE, DOE/Triad and the Department jointly request that the Commission stay the proceedings in this matter and hold all deadlines in this administrative appeal in abeyance until such time as the Commission may reinstate new deadlines by request of DOE/Triad or the Department as provided herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2020, a copy of the foregoing Joint Motion of the United States Department of Energy, Triad National Security, LLC and the New Mexico Environment Department, was sent by first class mail and electronic mail to:

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