December 1, 2023

John Rhoderick
NMED-GWQB
New Mexico Environment Department
Attn: Water Reuse Regulation
P.O. Box 5469
Santa Fe, New Mexico 87502

Delivered via email: ***pw.environment@env.nm.gov***

Re: New Mexico Oil & Gas Association Comments on NMED's Supplemental Requirements for Water Reuse

Dear Mr. Rhoderick,

Solaris Water Midstream, LLC ("Solaris") is pleased to have the opportunity to comment on the New Mexico Environment Department's draft "Ground and Surface Water Protection – Supplemental Requirements for Water Reuse" (20.6.8 NMAC). Solaris commends the State of New Mexico and the Environment Department for the collaborative effort during development of this rule and the recognition that there will be significant challenges in handling the vast volume of produced water projected for the future as Permian Basin growth continues.

Solaris is a full-service water midstream company focused on developing integrated water infrastructure assets for produced water in the Permian Basin across both New Mexico and Texas. Solaris operates produced water systems, gathers produced water from operators and transports it to both disposal and recycling facilities. Our produced water gathering systems also enable distribution of recycled water to strategically located off-take points near operator frac sites for re-use during drilling and completion activities. Therefore, Solaris is supportive of the efforts to develop improved methodologies for recycle and re-use, where appropriate. Such methods, when properly developed with appropriate assumptions and underlying infrastructure, can be helpful in limiting the consumption of freshwater during drilling and completion activities. Based on our review of the draft rule, we offer the following recommendations:

Key Priority Items

1. **20.6.8.7 - Definitions**

   Throughout the definitions provided, there are multiple definitions relating to applications, i.e. Agricultural, Class 1A Reuse, Class 1B Reuse, Class 2 Reuse, Commercial or Industrial Application, Flood Irrigation, Land Application, etc, that exclude the use of treated produced water in any of these applications. It is unclear why restrictions would be placed on alternatives uses of **any and all** treated wastewaters without determining the water quality for the individual applications. Wastewater of varying sources and quality can be treated to a highly purified quality; typically success is dependent on the

ability to economically continuously and reliability treat the water to an acceptable quality for the specific application.

2. **Treated produced water discharge to surface water or groundwater.**

   NMED has deferred the potential of highly treated produced water to be a long-term and viable resource in water scarce areas by declaring that there is no potential for surface water discharge or groundwater discharge until "scientifically defensible information about the composition, toxicity, fate and transport of treated produced water is adopted by the commission." However, this document does not provide a path or define hurdles that must be cleared to progress the use of water in these applications. Through the NPDES process, the Federal EPA has supported and authorized treated produced water to be discharged into waterways throughout the northeast and western United States. We suggest that the NMED put forth, at a minimum, the NPDES requirements previously utilized in permits in other U.S. states.

3. **Demonstration Projects to "Full-Scale" Projects**

   The use of the word "Demonstration" suggests that if a project is "successful", it could move into a full-scale project. However, no clear metric to achieve a successful demonstration project is provided, which makes it difficult to develop a demonstration project program that would lead to implementation of a full-scale project. We suggest that the NMED utilizes the recently circulated framework document from the TX RRC to ensure that all Demonstration projects follow the same sampling procedures and analytical requirements, for instance, to achieve a comparable data set. Without having predefined criteria for Demonstration projects, it will be difficult for the NMED to determine which Demonstration projects have the potential to move to full scale.

Solaris appreciates the opportunity to provide these comments. If you have any questions, please do not hesitate to contact Whitney Dobson at whitney.dobson@ariswater.com.

Sincerely,

Whitney Dobson

Whitney Dobson

Vice President, Beneficial Reuse

Solaris Water Midstream