ORDER DENYING PETITIONER'S
MOTION TO VACATE AGENCY DECISION AND REMAND
THE PETITION FOR REVIEW OF DP-1132

THIS MATTER came before the New Mexico Water Quality Control Commission ("Commission"), on April 9, 2019, and on May 14, 2019, at the New Mexico State Capitol Building, Room 307, located at 490 Old Santa Fe Trail, in Santa Fe, Santa Fe County, New Mexico, for a ruling on Petitioner's Motion to Vacate Agency Decision and Remand the Petition for Review of DP-1132 ("Motion"), filed on February 4, 2019, by and through Petitioner's counsel, the New Mexico Environmental Law Center (Lindsay A. Lovejoy, Jr. and Jonathan M. Block, Esquires). The Commission, by a vote in the affirmative of six (6) to one (1) with one abstention hereby renders this Order Denying Petitioner's Motion to Vacate Agency Decision and Remand the Petition for Review of DP-1132.

The Commission, being sufficiently advised, finds as follows:

1. Petitioner filed its Motion on February 4, 2019.

2. The New Mexico Environment Department filed a Response to the Motion on February 18, 2019.

3. The United States Department of Energy and Triad National Security, LLC as joint permittees under Discharge Permit No. 1132 filed a Response to the Motion on February 19, 2019.
4. The Commission set the Motion for hearing on April 9, 2019.

5. After hearing argument from attorneys for all the parties, the Commission denied the Motion.

6. Pursuant to 20.1.3.16 (A) (3) NMAC, Petitioner failed to demonstrate that there was no reasonable opportunity to submit comment or evidence on an issue being challenged with the permit review.

7. Petitioner failed to demonstrate that any Hearing Officer bias related to the Hearing Officer’s job application process with, and subsequent hiring by, one of the parties improperly biased the Secretary’s deliberation and issuance of his Order on GWQB 17-20(P).

8. An item to reconsider the Commission’s decision to deny the Motion was placed on the May 14, 2019, agenda.

9. No motion was made at the May 14, 2019 meeting to reconsider the Commission’s decision made on April 9, 2019.

**IT IS THEREFORE ORDERED** that the Petitioner’s Motion to Vacate and Remand the Petition is hereby **DENIED**;

**IT IS SO ORDERED.**

FOR THE NEW MEXICO WATER QUALITY COMMISSION

[Signature]

Jennifer J. Pruett
Commission Chair

June 5, 2019
Certificate of Service

I hereby certify that a true and correct copy of the foregoing Order Denying Petitioner's Motion to Vacate Agency Decision and Remand the Petition for Review of DP-1132 was emailed to all parties on June 5, 2019. The above mentioned document can be served via first class mail upon request.

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