

STATE OF NEW MEXICO  
BEFORE THE  
WATER QUALITY CONTROL COMMISSION



PETITION FOR REVIEW OF THE NEW MEXICO  
SECRETARY OF THE ENVIRONMENT'S DECISION  
GRANTING GROUNDWATER DISCHARGE  
PERMIT DP-1132 IN PROCEEDING GWB17-20(P)

WQCC No. 18-05(A)

**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**

June 5 2019  
DATE

  
\_\_\_\_\_  
Jennifer J. Pruett  
Commission Chair

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.

Jennifer Pruett, Esq., Deputy Secretary  
and Commission Chair  
New Mexico Environment Department  
1190 St. Francis Drive, Suite N4050  
Santa Fe, NM 87505  
jennifer.pruett@state.nm.us

John Grubestic  
Commission Counsel and  
Assistant Attorney General  
Open Government Division  
NM Office of the Attorney General  
PO Drawer 1508  
Santa Fe, New Mexico 87504  
jgrubestic@nmag.gov

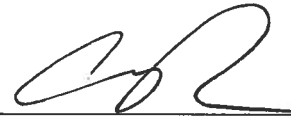
Mr. Stuart R. Butzier and Ms. Christina C. Sheehan  
Modrall Sperling Roehl Harris & Sisk, PA  
123 E. Marcy Street, Ste. 201  
Santa Fe, New Mexico 87501  
sbutzier@modrall.com  
ccs@modrall.com

Silas R. DeRoma, Site Counsel,  
U.S. Department of Energy/NNSA  
3734 West Jemez Road/MS-A316  
Los Alamos, New Mexico 87544  
silas.deroma@nnsa.doe.gov

Ms. Susan L. McMichael  
Office of Laboratory Counsel/MS A187  
Los Alamos National Laboratory  
P.O. Box 1663  
Los Alamos, New Mexico 87545-0001  
smcmichael@lanl.gov

*Counsel for Triad National Security, LLC, and  
U.S. Department of Energy/NNSA*

Mr. John Verheul, Assistant General Counsel,  
New Mexico Environment Department  
121 Tijeras Avenue, NE, Suite 1000  
Harold Runnels Building, Suite N-4050  
Albuquerque, New Mexico 87102  
john.verheul@state.nm.us  
*Counsel for the New Mexico Environment Department*



---

Cody Barnes  
Commission Administrator  
(505) 827-2428  
cody.barnes@state.nm.us