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James C. Kenney
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MEMORANDUM

To: Mike Hightower, Program Director, New Mexico Produced Water Research Consortium

From: Rebecca Roose, Director, Water Protection Division, NMED

Cc: James C. Kenney, Cabinet Secretary
Dr. Dan Arvizu, Chancellor, New Mexico State University
Dr. Pei Xu, Research Director, New Mexico Produced Water Research Consortium
Government Advisory Board, New Mexico Produced Water Research Consortium

Date: January 20, 2021

Re: Protecting water quality and public health during research activities

The New Mexico Environment Department (NMED) appreciates our ongoing collaboration with New Mexico State University and the New Mexico Produced Water Research Consortium (Consortium) to advance sound scientific study to fill gaps in knowledge related to the treatment and reuse of produced water for activities unrelated to the oil and gas industry (aka, "off-field activities"). NMED is committed to developing strong science-based regulations for any future authorized off-field activities related to the "discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water." See NMSA 1978, § 74-6-4(P).

NMED will look to the Consortium's research data to develop appropriate proposed standards and regulatory permitting processes to move through a public rulemaking before the New Mexico Water Quality Control Commission (WQCC).

Throughout the Consortium's research efforts in coming years, some activities may require advanced authorization from NMED pursuant to existing environmental and human health protection requirements, such as Water Quality Act and WQCC regulatory requirements related to the protection of groundwater and surface water quality (§§ 74-6-4(P); 74-6-8, 9(B), 20.6.2 NMAC, and 20.6.4 NMAC) and licensing by NMED's Radiation Control Bureau in accordance with the Radiation Control Act (§§ 74-3-1 to -16) and implementing regulations (20.3.14 NMAC).

During the Consortium's second year, it will build on the successes of 2020 and advance progress around our shared research priorities. The technical Request for Proposals (RFP) issued by the Consortium on January 4, 2021, will lead to technical projects that demonstrate treatment technology capabilities, develop more

robust analytical methods for produced water characterization, support advancements around produced water data availability and geospatial analytics, establish quantitative risk and toxicology testing related to human health and environmental impacts of treated produced water reuse applications, and develop new tools for further research around fit-for-purpose reuse applications. **Consistent with the January 2021 RFP, NMED will not authorize the discharge of treated or untreated produced water in New Mexico in relation to any Consortium-supported research activities during 2021.**

During 2021, NMED will continue its efforts to develop regulatory guidance for Consortium pilot projects that require advanced authorization (e.g., permit or license) from NMED. The guidance is critical to ensuring that all research activities in 2022 and beyond will meet the highest standards of scientific integrity and rigor and comply with existing environmental and public health regulatory requirements related to managing the discharge and/or release of regulated contaminants. NMED's regulatory guidance for pilot projects will outline the Department's expectations for quality assurance and quality control measures for future Consortium-supported research that requires NMED authorization under existing permitting and licensing requirements. In addition, the guidance will describe NMED's approach for writing and issuing groundwater discharge permits for Consortium research activities that require such a permit, which will, in turn direct pilot project proponents on the information that must be provided to NMED to obtain such a permit.

Questions about this Memorandum should be directed to me at Rebecca.roose@state.nm.us.