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**BEFORE THE EXECUTIVE DIRECTOR  
OF THE UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

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In the Matter of:

Valle Del Padres Subdivision, Utah Public  
Community Water System #UTAH07061

Docket No. UTAH07061-2017-01-WTTC

**ORDER OF DISMISSAL**

January 25, 2019

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As the Executive Director of the Utah Department of Environmental Quality, I may take “dispositive action” or final agency action following an adjudicative proceeding on a request for agency action.” Utah Code Ann. § 19-1-301(1). The Valle Del Padre Subdivision water system did not request appointment of an administrative law judge (“ALJ”) in this matter pursuant to Utah Admin. Code R305-7-206(2), and no ALJ has been appointed to conduct this adjudicative proceeding.

On September 11, 2017, the Director of the Division of Drinking Water (“Director”) issued an Initial Order for New Public Water System for Valle Del Padres Subdivision UTAH07061 (“Initial Order”), recognizing it as a public water system and requiring several actions, including obtaining an operating permit for the water system, and sampling requirements.

On October 11, 2017, the Valle Del Padres Subdivision Homeowner’s Association (“HOA”), through legal counsel, filed a timely Request for Agency Action (“Request for Agency Action”), thereby initiating these adjudicative proceedings. On page 2 of the Request for Agency Action, the Valle Del Padres Subdivision HOA contested some of the factual allegations in the

Initial Order, such as that there were 23 improved lots with structures and not “in excess of 30 homes,” that the water system did not supply water year round, and that Mr. Phelps was no longer associated with the HOA, as he had passed away in 2007. In the Statement of Relief Sought, the petitioner asked for an “opportunity to discuss and to present correct and up-to-date evidence” to the Director before entry of a final order, and later expressed that it had a right “to participate in the determination of any Order affecting its water system.”

The Director issued an Amended and Restated Initial Order for New Public Water System for Valle Del Padres Subdivision UTAH07061 dated June 27, 2018 (“Amended Order”). In her cover letter, the Director acknowledged that the Amended Order reflected the results of a meeting held in the Fall of 2017 between the Division of Drinking Water and the Valle Del Padres Subdivision. The Findings of Facts in the Amended Order were changed to reflect that there were 23 improved lots, that there are no year-round residents connected to the water system, and that Steve Bartlett is the individual responsible for the Valle Del Padres Subdivision water system. The Amended Order also reflected changes in sampling requirements based on the system not being operated year-round.

Most importantly, page 1 of the Amended Order states that it “supersedes and replaces the Director’s Initial Order for New Public Water system dated September 11, 2017....” As with the Initial Order, the Amended Order stated that it would be final thirty days after the date of issuance unless contested by a written request for agency action. The Valle Del Padres Subdivision did not file a request for agency action contesting the Amended Order.

The Director filed a Motion for Summary Judgment dated October 31, 2018 (“Motion for Summary Judgment”), asking that the Request for Agency Action be dismissed on the ground that it is moot, because the Amended Order superseded and replaced the Initial Order.

Pursuant to Utah Admin. Code R305-7-312(2), any response to a motion must be filed within 21 days of service of the motion. According to the Certificate of Service for the Motion for Summary Judgment, the motion was served on October 31, 2018. Any response to the motion was due by November 21, 2018. The Valle Del Padres Subdivision HOA/water system did not file any response to the Motion for Summary Judgment. Therefore, the Director's unopposed Motion for Summary Judgment is granted.

**ORDER**

IT IS HEREBY ORDERED that the Valle Del Padres Subdivision HOA's Request for Agency Action is DISMISSED as moot, thereby terminating these adjudicative proceedings.

DATED this 25<sup>th</sup> day of January, 2019.

  
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Alan Matheson, Executive Director  
Department of Environmental Quality

**NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW**

Pursuant to Utah Code Ann. §§ 19-1-301, 63G-4-401, and 63G-4-403, a party may seek judicial review in the Utah Court of Appeals or the Utah Supreme Court within thirty (30) days of the date of this Order, as provided by statute.

## CERTIFICATE OF SERVICE

I hereby certify that on this 25<sup>th</sup> day of January, 2019, a true and correct copy of the foregoing **Order of Dismissal** was served via e-mail upon each of the following:

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Shane R. Bekkemellom  
Administrative Legal Secretary