

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

ORDER WR 2019-0054-EXEC

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In the Matter of the Petition for Reconsideration of

**North Tahoe Public Utility District**

Regarding Orders Cancelling Applications A023475 and A023727

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**ORDER GRANTING PETITION FOR RECONSIDERATION**

**BY THE EXECUTIVE DIRECTOR<sup>1</sup>:**

**1.0 INTRODUCTION**

On June 20, 2019, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued orders cancelling Applications A023475 and A023727 held by the North Tahoe Public Utility District (District). On July 19, 2019, the District filed a timely petition for reconsideration seeking reinstatement of the two applications on the ground of irregularity in the proceedings.

**2.0 BASIS FOR RECONSIDERATION**

Any interested person may petition the State Water Board for reconsideration of a decision or order. (Cal. Code Regs., tit. 23, § 768.)<sup>2</sup> The legal bases for reconsideration are: (a) irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing; (b) the decision or order is not supported by substantial evidence; (c) there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced; (d) error in law.

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<sup>1</sup> State Water Board Resolution 2012-0061 delegates to the Executive Director the authority to conduct and supervise the activities of the State Water Board, subject to exceptions not applicable here. This Order falls within the scope of the authority delegated under Resolution 2012-0061.

<sup>2</sup> Unless otherwise indicated, all future citations are to title 23 of the California Code of Regulations.

The State Water Board may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the State Water Board's regulations. (§ 770, subd. (a)(1).) Alternatively, after review of the record, the State Water Board also may deny the petition upon a finding that the decision or order was appropriate and proper, set aside or modify the decision or order, or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)

A petition must specify the specific State Water Board action for which the petitioner requests reconsideration, "the reason the action was inappropriate or improper," "the specific action which petitioner requests," and must contain "a statement that copies of the petition and accompanying materials have been sent to all interested parties." (§ 769, subd. (a)(2), (4)-(6).) Additionally, "a petition shall be accompanied by a statement of points and authorities in support of legal issues raised in the petition." (*Id.*, subd. (c).)

The District's petition for reconsideration seeks relief pursuant section 768, subd. (a), and meets the regulatory requirements set forth above.

### **3.0 DISCUSSION**

On June 20, 2019, the Division issued orders cancelling Applications A023475 and A023727 held by the District. The orders were issued based on voluntary Request for Cancellation of Water Right Application forms submitted by the District on April 30, 2019 as part of the District's response to the Division's request for supplemental information related to all of the District's pending water right actions. While the cover letter transmitting the supplemental information was watermarked "DRAFT," the accompanying Request for Cancellation forms were fully executed and were not watermarked "DRAFT."

On July 19, 2019, the District filed a timely petition for reconsideration of the orders cancelling Applications A023475 and A023727 based on irregularity in the proceedings. Specifically, in its memorandum of points and authorities the District asserts that the Request for Cancellation forms were submitted as part of a draft package and that the District intended the cancellation of applications A023475 and A023727 to be interdependent with and contingent upon all of the actions related to its pending water right actions that were outlined in the District's April 30, 2019 letter. The District states that issuance of the cancellation orders was thus premature, resulting in an irregularity in the proceedings that warrants reconsideration.

The State Water Board acknowledges that the District did not intend that the Request for Cancellation forms be processed by the State Water Board immediately upon receipt of the District's April 30, 2019 letter. The issuance of the orders was an irregularity in the proceedings that warrants the granting of reconsideration.

**ORDER**

**IT IS HEREBY ORDERED** that the District's petition for reconsideration of the June 20, 2019 orders cancelling Applications A023475 and A023727 is granted. The June 20, 2019 orders cancelling Applications A023475 and A023727 shall be set aside and both applications shall be reinstated.

Dated: AUG 20 2019

ORIGINAL SIGNED BY:  
Eileen Sobeck  
Executive Director