Petition for Reconsideration of Determination of "Water Rights Fee" Due and Joinder in California Farm Bureau Federation's Petition for Reconsideration

Pursuant to California Water Code § 1120 *et seq*. and Title 23, California Code of Regulations § 768 *et seq*., the person whose name and address is stated below (Petitioner) hereby petitions the State Water Resources Control Board (SWRCB) to reconsider its determination as stated in the Notice of Determination it issued to Petitioner, a copy of which is attached to this Petition. (If more than one copy of a Notice of Determination is attached to this Petition, then this Petition shall apply to all such Notices, and all references herein to "Notice of Determination" are to be construed in the plural.)

Contrary to the Notice of Determination, no "Water Rights Fee" for fiscal year 2016-17 is in fact due. The amount claimed due is an invalid charge resulting from the adoption by the SWRCB of Resolution No. 2016-0053 on September 20, 2016, which adoption was pursuant to pertinent provisions of Senate Bill 1049 (Stats. 2003, ch. 741) (SB 1049), and from the emergency "Water Rights Fee" regulations and schedule revised thereby.

The adoption of Resolution No. 2016-0053 was improper and unlawful for the reasons stated in the Petition for Reconsideration that California Farm Bureau Federation (CFBF) filed with the SWRCB on February 9, 2004, as well as in the resulting and pending lawsuit *CFBF, et al.,* v. *SWRCB, et al.*, Sacramento County Superior Court Case No. 04CS00473 (consolidated with Case No. 03CS01776) (Lawsuit), to the extent those reasons survived under the opinion issued by the California Supreme Court and reported at 51 Cal.4th 421; see "Final Statement of Decision" issued in the Lawsuit by the Sacramento County Superior Court on November 12, 2013.

The adoption of the Resolution was improper and unlawful also for the reasons stated in the Petition for Reconsideration filed or to be filed by CFBF with the SWRCB that challenges the emergency regulations promulgated by Resolution No. 2016-0053 and in which Petition for Reconsideration Petitioner hereby joins.

Petitioner incorporates in full herein by this reference the points made in both of those Petitions for Reconsideration and in the Complaint and briefs filed by CFBF in the Lawsuit, briefly to wit: The "Water Rights Fee" is an unconstitutional tax or is otherwise an invalid fee or charge that deprives Petitioner of Petitioner's rights under Article XIIIA of the California Constitution, commonly known as Proposition 13.

Petitioner therefore requests that the SWRCB: rescind its determination that a "Water Rights Fee" is due from Petitioner for fiscal year 2016-17; refund with appropriate interest every "Water Rights Fee" paid or to be paid by Petitioner for fiscal year 2016-17; vacate and rescind all regulations that impose that "Water Rights Fee"; and take other appropriate action to remedy the improper and unlawful adoption of Resolution No. 2016-0053.

Petitioner does not know the identity of any other interested person other than California Farm Bureau Federation and is informed that no list of such persons is publicly available.

The evidence in this matter should include items such as the legislative history of the pertinent sections of SB 1049, the administrative record of all rulemaking related to the imposition of the "Water Rights Fee," and all documents filed with the court in the Lawsuit.

Dated: _____, 2016

Signature: _____

Printed Name: _____

Address: _____

_____

[ATTACH A PHOTOCOPY OF EACH "WATER RIGHTS FEE" BILL YOU RECEIVED; KEEP A PHOTOCOPY OF THIS COMPLETED FORM AND OF EACH BILL.]

Mail this form and bill copies to: **STATE WATER RESOURCES CONTROL BOARD**
DIVISION OF WATER RIGHTS
PO BOX 2000
SACRAMENTO CA 95812-2000

DEADLINE: This form and the bill copies must REACH the SWRCB within 30 days of the bill date. For example, for bills dated November 8, 2016, the receipt deadline is Thursday, December 8, 2016.