



# Media Release

## **Court ruling upholds \$2.8 million penalty, protects sensitive marsh land in Suisun Bay**

***After massive and unauthorized levee construction, Point Buckler Island to be restored***

**March 2, 2021**

**Contact:** Blair Robertson  
Blair.Robertson@waterboards.ca.gov

**OAKLAND** –In a ruling that could strengthen vital wetlands protections throughout California, the First District Court of Appeal has upheld a cleanup and abatement order and a \$2.8 million fine issued by the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) for unauthorized levee construction and other activities in the Suisun Marsh.

Located in Solano County, Suisun Marsh is the largest contiguous, brackish marsh on the west coast of North America and a critical part of the Bay-Delta estuary.

The case centers around activity dating to 2014 and 2015, when John Sweeney and Point Buckler Club constructed nearly a mile of levee around Point Buckler Island without obtaining permits or approvals from the San Francisco Bay Water Board and other agencies. The levee blocked off all tidal channels, killing the tidal marshland vegetation and preventing salmon and other sensitive fish species from entering the channels to forage for food.

Point Buckler Club advertises itself as an exclusive kiteboarding club and is a 15-minute helicopter flight from Silicon Valley. It is historically a managed wetland used for duck hunting. In 2016, the board issued a cleanup and abatement order requiring Sweeney and the club to restore the tidal circulation and marsh habitat at the island and imposed a \$2.8 million fine.

The large fine reflected the brazen nature of the dischargers' activities and the extent of the ecological harm. The Bay Conservation Development Commission (BCDC) also issued a \$752,000 penalty in 2016 and required restoration, mitigation, and monitoring requirements.

"This is an enforcement case with the most negative impact to wetlands we've seen in a long, long time, and it stems from the most egregious violation involving a wetland impact we've seen in decades," said Xavier Fernandez, planning division chief with the San Francisco Bay Water Board.



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

STATE WATER RESOURCES CONTROL BOARD

1001 I Street, Sacramento, CA 95814 • Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 • [www.waterboards.ca.gov](http://www.waterboards.ca.gov)



Sweeney and Point Buckler Club challenged the board's and BCDC's orders in court and received a favorable decision by the Solano County Superior Court. The board and BCDC petitioned to the Court of Appeal, which sided with the board and BCDC. The court's decision affirms longstanding precedent under the Porter-Cologne Water Quality Control Act and ensures that the board can continue to regulate dredge and fill activities, and protect critical wetland habitat throughout the San Francisco Bay.

Fernandez noted that the court ruling declares that state law protects waters of the state from fill activities. This is especially important given the numerous creeks, ponds and wetlands that are no longer Waters of the U.S. under the new Clean Water Rule.

The court's opinion is consistent with a decision issued last fall by the U.S. District Court for the Eastern District of California. That decision found that Sweeney and the Point Buckler Club had violated the Clean Water Act when they built the levee.

The [San Francisco Water Board](#) is a California state agency responsible for the preservation and enhancement of water quality.

###