



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

---

## San Francisco Bay Regional Water Quality Control Board

May 17, 2016  
Place ID 816826 (BMM)

Certified Mail: 7015 3010 0000 1554 5328 (Sweeney)  
7015 3010 0000 1554 5311 (Point Buckler Club, LLC)

*Return Receipt Requested*

John D. Sweeney  
171 Sandpiper Drive  
Pittsburg, CA 94565  
*Also sent via email:* john@spinnerisland.com

Point Buckler Club, LLC  
Attn: Lawrence S. Bazel  
155 Sansome Street  
San Francisco, CA 94104  
*Also sent via email:* lbazel@briscoelaw.net

**Subject: Administrative Civil Liability Complaint No. R2-2016-1008 for Unauthorized Discharge of Fill and Failure to Obtain a Water Quality Certification, Point Bucker Island, Suisun Marsh, Solano County; Tentative Cleanup and Abatement Order**

Dear John D. Sweeney:

Complaint No R2-2016-1008 (Complaint) enclosed with this letter issues an administrative civil liability (ACL) against John D. Sweeney and Point Buckler Club, LLC (Dischargers) in the amount of \$4,600,000. This liability is based on allegations that the Dischargers violated the San Francisco Bay Basin Water Quality Control Plan Discharge Prohibition No. 9 and Clean Water Act section 301 for unauthorized discharge of fill to waters of the State and United States and Clean Water Act section 401, for failure to obtain a Water Quality Certification.

In addition, a Tentative Cleanup and Abatement Order (CAO) is enclosed, requiring the Dischargers to abate the effects on beneficial uses resulting from unauthorized activities. The CAO is being provided in draft form, and the Dischargers and designated or interested parties may provide comments to the proposed draft until **June 16, 2016**. Written comments submitted after this date may not be considered by the Regional Water Board. Pursuant to Title 23 of the California Code of Regulations, section 2050(c), any party who challenges the Regional Water Board's action on this matter through a petition to the State Water Board pursuant to Water Code section 13320 will be limited to raising only those substantive issues or objections that were raised before the Regional Water Board at the public meeting or in timely written correspondence submitted to the Regional Water Board as described above. The enclosed Hearing Procedures, which will govern both the ACL and CAO, provide more information about the administrative process, although it is briefly summarized below.

The Dischargers can respond to the Complaint and CAO by appearing before the Regional Water Board at a public hearing to contest the matter, or by signing the enclosed waiver to pursue other options, including settlement.

---

DR. TERRY F. YOUNG, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)

1. The Complaint and CAO may be contested before the Regional Water Board at the following meeting:

Date/Time: August 10, 2016, commencing at 9:00 a.m.  
Place: First Floor Auditorium, Elihu Harris State Building  
1515 Clay Street, Oakland

At this meeting, the Regional Water Board will consider whether to impose administrative civil liability (as proposed in the Complaint or for a different amount), decline the administrative civil liability, or refer the matter to the Attorney General for judicial enforcement at a public hearing. In addition, the Regional Water Board will consider issuing the CAO. The CAO may be issued as proposed by the prosecution team, or modified by the Regional Water Board after consideration of any Dischargers' and interested parties' comments.

Please refer to the enclosed Public Notice and Hearing Procedure for the Complaint and CAO and the ACL Fact Sheet for additional information about the Regional Water Board's process, hearing procedure, and important deadlines (for submitting comments or evidence, obtaining designated party status, waiving or postponing a hearing, making objections or rebuttals to evidence, etc.).

Pursuant to California Water Code section 13304, the Dischargers are hereby notified that the Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effect thereof, or other remedial action, required by the CAO.

2. A hearing must be held within 90 days after issuance of an ACL Complaint, according to Water Code Section 13323, unless a waiver extending the hearing is received. The Dischargers can waive the public hearing that has been scheduled for August 10, 2016, to pursue one of the following options:
  - a. Pay the liability as proposed in the Complaint;
  - b. Request more time and postpone the date of the public hearing;
  - c. Promptly engage in settlement discussions with the Regional Water Board Prosecution Team;
  - d. Propose a Supplemental Environmental Project (SEP), where partial payment of the penalty may be deferred towards completion of an environmental project (see the enclosed SEP Policy for more information on such projects).

The Waiver, attached to the Complaint, describes these options in further detail, and also provides the deadline for submitting an SEP proposal (if this option is selected). To pursue one of these options, **the Waiver must be signed, dated, and received by Marnie Ajello of the Regional Water Board Advisory Team with a copy to the Prosecution Team contact listed below no later than 5:00 p.m. on June 16, 2016.**

For more information about SEPs and the project selection and proposal approval process, please contact Athena Honore of the San Francisco Estuary Partnership (SFEP) at (510) 622-2325 or [ahonore@waterboards.ca.gov](mailto:ahonore@waterboards.ca.gov). To see examples of current and completed projects, visit SFEP's website: <http://www.sfestuary.org/our-projects/stewardship/sep/>.

Copies of these documents are also being provided to your counsel, Lawrence Bazel. We have discussed with Mr. Bazel his schedule in setting the hearing, as well as a meeting to discuss the proposed liability and mitigation and answer any questions about the administrative process. A meeting on May 2, 2016, was cancelled by Mr. Bazel, but another meeting is scheduled for May 18, 2016. Given the issuance date of the Complaint and CAO, we would offer Mr. Sweeney and Mr. Bazel the opportunity to meet with the Regional Board Prosecution Team on May 18, 2016, as scheduled, or during the week of June 1, 2016 to allow greater time to review the documents and to ensure a more productive discussion. Please confirm what date works best.

If you wish to communicate directly with the Prosecution Team regarding the Complaint, please contact Benjamin Martin at (510) 622-2116 or [Benjamin.Martin@waterboards.ca.gov](mailto:Benjamin.Martin@waterboards.ca.gov).

Sincerely,

Dyan C. Whyte  
Assistant Executive Officer

Enclosures: ACL Complaint No. R2-2016-1008  
Tentative CAO  
Waiver Forms for ACL Complaint No. R2-2016-1008  
Public Notice and Hearing Procedure for ACL Complaint No. R2-2016-1008 and  
Tentative CAO  
Administrative Civil Liability Fact Sheet  
State Water Resources Control Board Policy on Supplemental Environmental  
Projects, February 3, 2009.

Copy to: Regional Water Board Lyris Enforcement email list  
Regional Water Board Advisory and Prosecution Teams  
Matthew Bullock, DAG, [Matthew.Bullock@doj.ca.gov](mailto:Matthew.Bullock@doj.ca.gov)  
Bill Lee, EPA R9 Enforcement, [Lee.Bill@epa.gov](mailto:Lee.Bill@epa.gov)  
Brett Moffatt, EPA R9 Counsel, [Moffatt.Brett@epa.gov](mailto:Moffatt.Brett@epa.gov)  
Paul Jones, EPA R9 Life Scientist, [Jones.Paul@epa.gov](mailto:Jones.Paul@epa.gov)  
Craig Stutheit, EPA Criminal Investigation, [Stutheit.Craig@epa.gov](mailto:Stutheit.Craig@epa.gov)  
Maggie Weber, BCDC Staff, [Maggie.Weber@bcdca.gov](mailto:Maggie.Weber@bcdca.gov)  
Marc Zeppetello, BCDC Counsel, [Marc.Zeppetello@bcdca.gov](mailto:Marc.Zeppetello@bcdca.gov)  
John Bowers, BCDC Counsel, [John.Bowers@bcdca.gov](mailto:John.Bowers@bcdca.gov)  
Donald Tanner, NOAA, [Don.Tanner@noaa.gov](mailto:Don.Tanner@noaa.gov)  
Steve Chappell, SRCD, [schappell@suisunrcd.org](mailto:schappell@suisunrcd.org)  
Bernadette Curry, Solano County DA, [BSCurry@SolanoCounty.com](mailto:BSCurry@SolanoCounty.com)  
Nicole Sasaki, SF Baykeeper, [Nicole@baykeeper.org](mailto:Nicole@baykeeper.org)  
Reed Zars, Law Offices of Reed Zars, [reed@zarslaw.com](mailto:reed@zarslaw.com)  
Edward Yates, [eyates@marinlandlaw.com](mailto:eyates@marinlandlaw.com)  
Stuart Sigel, Siegel Environmental, [stuart@swamptthing.org](mailto:stuart@swamptthing.org)  
Peter Baye, Botanist/Coastal Ecologist, [baye@earthlink.net](mailto:baye@earthlink.net)