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1 December 2015

By E-Mail

Bruce H. Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Cleanup and Abatement Order R2-2015-0038
Point Buckler [Club] LLC
Request For Extension Of Time

Dear Mr. Wolfe:

On behalf of Point Buckler Club, LLC (the "Club"), I am writing to identify additional work to be submitted to the Regional Board, and to request an extension of time for item B.2 of Cleanup and Abatement Order R2-2015-0038 (the "Order"), which calls for a workplan that is now due on 1 January 2016. The additional work is needed to develop a workplan and to assist the Regional Board is its decision-making process, and the work cannot be completed by 1 January. We therefore request that the due date for a workplan be extended until after the additional work is submitted. Please process this request quickly, so that we may avoid having to prepare for proceedings in superior court.

Additional Information

Following up on a meeting with staff, we propose to submit five additional types of information:

1. *Wetlands delineation*. We are in the process of retaining a wetlands-delineation expert to advise us on issues related to the placement of material in wetlands or waters. His report should resolve the Regional Board's questions about the extent to which section 404 of the Clean Water Act is applicable to the work at issue.

2. *Topographical information*. Although we are still in the process of determining now to implement this activity, we will provide additional information about the elevation of the

island. This information should help the Regional Board resolve questions related to the issue of whether, or to what extent, the area inland of the levees was affected by the tides before the work was performed.

3. *Use of the island as a duck club*. We are conducting research on the past use of the island as a duck club, and will provide a report to the Regional Board. This information should resolve the Regional Board's questions of about the use of the island in the past.

4. *DWR's commitment to install and maintain a pump*. We intend to request DWR's files on the island, and on its identification of the installation and maintenance of a pump as a CEQA mitigation project. The information should resolve the Regional Board's questions about the pump and generator found on the island, and about the origin and scope of DWR's commitment.

5. *Research on identification as tidal wetland*. The island has appeared on some maps as a tidal wetland, and even as a constructed permitted restored tidal wetland, even though other maps identify the island as being at too high an elevation to be tidal wetland, and even though there has not been any permitting, much less construction, to make the island into a tidal wetland as opposed to a duck club. We intend to research these identifications, and determine what data they are based on.

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The Order calls for:

> A workplan proposal for corrective actions designed to: (a) restore tidal circulation to all of the tidal channels and interior marsh habitat that existed prior to the Discharger's levee construction activities; and (b) provide compensatory mitigation habitat to compensate for any temporal and permanent impacts to the functions and values provided by the impacted wetlands.

The original due date was 1 November 2015. By letter dated 15 October 2015, you extended the due date to 1 January 2016.

We expect the additional work to be submitted on 29 February 2016. Following the submission, we expect to meet with Regional Board staff in late March, after staff have had an

opportunity to review the information and discuss it. At that meeting, and depending on the outcome of our additional investigations, we hope to be able to continue to discuss a resolution that would leave the levee work in place.

Regardless of what decisions are made at that meeting, or by the Regional Board following that meeting, we will need some time to proceed. If, for example, all parties agree that the proper course is to proceed with the workplan, we will need at least a month to prepare the workplan. Anything else is likely to take at least as long, if not longer.

We therefore request an extension of time until 30 April 2016.

As we have explained to staff, there is some urgency to this request. Most reports take more than 30 days to prepare, especially if data must be collected or information obtained from third parties. If we come to an impasse, and feel that we must proceed thought litigation, it will take time for us to prepare the paperwork, and to avoid a situation in which the Regional Board's lawyers do not have adequate time to respond. We therefore ask that we be given informal notification of the Regional Board's decision as soon as it is made, and that a letter be provided as soon as possible.

Thank you very much for your consideration of this request, and please call with any questions.

Sincerely,

Lawrence S. Bazel

cc: A. Farres (by e-mail)
K. Lichten (by e-mail)
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