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STATE OF CALIFORNIA

REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION

In the matter of: TENTATIVE ORDER ADOPTION OF CLEANUP AND ABATEMENT ORDER for: POINT BUCKLER ISLAND, SOLANO COUNTY	DECLARATION OF JOHN SWEENEY

I, John Sweeney, declare as follows:

1. I am manager of Point Buckler Club, LLC (the "Club"). I have personal knowledge of the facts in this declaration, and if called as a witness could competently testify to them.

2. Duck clubs use levees to maintain control over water levels in the duck ponds. Conversations with previous owners of the island confirm that it was used as a duck club back to the 1920s. The Department of Water Resources ("DWR") installed a pump and generator on the island in the early 1990s, according to the owner of the island at the time. An old pump and a generator are still there. The pump is designed to float in the open water, and to draw water a few feet below the surface. There was a hose to carry the pumped water over the levee and onto the island, where it would have flooded a large area that could be used as a duck pond. This equipment appears to be the pump and generator that DWR installed. Their purpose is obviously to pump water onto the island from the adjacent channel.

3. Duck clubs do not generally use pumps because they do not need them. Duck ponds are typically below high tide levels. Duck clubs open their tide gates, and water flows into the ponds. When the water level is where they want it, they close the tide gate to maintain the water level. At the end of the season they drain their ponds by opening the tide gate and allowing the water to drain out. When the ponds are drained, clubs can remove dead vegetation by discing or burning.

4. There is only one reason that a pump would have been installed at Point Bucker, and that DWR would have wanted the levees repaired. The island was above high tide, and did not flood naturally. To flood a duck pond, the owner would have had to pump water onto the island. But there would be no point to pumping water onto the island if the levee were not tight, because the pumped water would simply drain off of the island into the surrounding waters. For the pump to flood a duck pond, which was its obvious purpose, the levee had to be tight.

5. Staff of the Bay Conservation and Development Commission ("BCDC") provided me with an "individual management plan" (the "Plan") dated 1984 for Point Buckler, which was then called the "Annie Mason Point Club". BCDC staff reported that the Plan was certified.

6. In 2014, I repaired the levee. I dug out material from an artificial ditch inside the levee and placed the material on the existing levee. Some material was placed where the levee had been breached, and (where part of the levee had eroded away) on solid ground inside the former levee location. I repaired one of two tide gates.

7. Although the island is used for kiteboarding, the levee repair was not needed for kiteboarding because the great majority of Point Buckler is dry at high tide, and was before the levee repair. The levee was repaired so that the duck club could be rejuvenated. Work stopped in October 2014, when the Club learned that there were regulatory objections. The Club would like to finish the levee repair, install a second tide gate, and do the additional work necessary for a fully functioning duck club, including discing the ponds, planting the vegetation that would provide food for ducks and other waterfowl, and otherwise restoring the duck ponds and waterfowl habitat. However, the Club does not intend to proceed with this work unless the issues raised by the agencies have been

resolved. Neither the Suisun Resource Conservation District nor BCDC contacted the Club until after the work was substantially completed.

8. Attached as Exhibit 1 is an accurate copy of a declaration from Steven Chappell that I received from BCDC. Neither the Suisun Resource Conservation District nor BCDC contacted the Club until after the levee repair was substantially completed.

9. At the time the Regional Board issued a cleanup and abatement, Regional Board staff had not visited the island. Their first visit, at the invitation of the Club, was in October 2015.

10. No agency has ever asked the Club to restore the tidal flow by open the tide gate. Nor has any of the agencies expressed any interest in flooding part of the island to create a duck pond, as the Club would like to do.

11. The top of the levee is made up of dirt and peat. It has not been paved, graveled, or otherwise protected against erosion. Any substantial flow across the top of the levee would have left erosion marks. The peat in the levee is especially fluffy and weak, and is easily eroded.

12. There are no marks of water flowing over the levee.

13. I was on the island on July 3, 2016, and observed no erosion marks or any other sign that any water had flowed over the top of the levee.

14. The eastern side of the island is too steep and vegetated to have a clear debris line.

15. The white line along the shore of the island consists of debris, including dead vegetation and whitened wood, along with some other detritus including styrofoam. Attached as Exhibit 2 are accurate copies of photographs I took of the debris line at Point Buckler.

16. When repairing the levee, I intentionally stayed above the debris line.

17. I was present on the island for much of 2014. I often worked on the levee repair five days per week. The work extended over perhaps six months.

18. During all of the time I was repairing the levee, I never saw the island under water. Nor have I seen it under water before or since. During the time I was working on the island, I did not see water rise up over the top of the interior channels and ditches and spread over the land.

19. Before the levee was repaired, I cut vegetation on the island. Attached as Exhibit 3 is an accurate copy of a photograph showing the cutting the vegetation. When I was cutting the

vegetation, the island was dry. I drove a bulldozer across the island to create several roads and paths. Attached as Exhibit 4 are accurate copies of photographs of the bulldozers on the island in May 2012. When I drove a bulldozer across the island, the island was dry. To repair the levee, I used an excavator that weighs about 60,000 pounds. If the island had been tidal marsh, the excavator would have gotten stuck in the muck, but the island was not tidal marsh and the excavator never got stuck.

20. The aerial photograph dated May 19, 2012 was taken shortly after cleared vegetation on the western tip of the island for kiteboarding. I also cleared the vegetation to create several roads, and excavated two duck ponds, one near the northern tip of the island and one near the southeastern tip. In May 2012, I observed that the vegetation on the island was brown and brittle, and appeared dead.

21. In May 2016 the island was very green. Attached as Exhibit 5 are accurate copies of photos taken of Point Buckler in May 2016.

22. Attached as Exhibit 6 is an accurate copy of an e-mail I received from Stuart Siegel to on May 14, 2015.

23. Attached as Exhibit 7 is an accurate copy of an e-mail I received from Stuart Siegal on May 14, 2015.

24. I declined Stuart Siegel's offer to work for the Club.

25. Attached as Exhibit 8 is an accurate copy of a map entitled "Suisun Tidal Wetland Restoration Projects" that Stuart Siegel's firm created in 2004.

26. Attached as Exhibit 9 is an accurate copy of a screenshot I took of the San Francisco Estuary Institute's EcoAtlas wetland map and database.

27. Attached as Exhibit 10 is an accurate copy of an e-mail I received from Christina Grosso, of San Francisco Estuary Institute, on June 17, 2015.

28. I believe that the errors in the 2004 map were intentional, and I have made that belief known publicly.

29. Where the existing levee was intact, the levee was maintained by placing material on top of it. On the northern side of the island, where the old levee had been eroded away, the repaired levee turn inland, and stayed inside the debris line.

30. The levee repair work was stopped before it was complete because of regulatory objections. The Club intended to install another tide gate, and to make the slopes of the levee consistent with the Management Program. The Club also intended to disc the soil, to plant vegetation preferred by waterfowl, and otherwise to create duck ponds. The Club would like to proceed to complete the work and install duck ponds.

31. A levee is required for managed wetlands—duck ponds—because duck ponds maintain a continuous water level even as the tide rises and falls.

32. The purpose of the levee repair was to create a duck pond or series of duck ponds.

33. At one time, the Club kept a few pet goats on the island.

34. The Club has parked several pieces of movable equipment on the island. Several shipping containers and trailers are being used for temporary storage, for a temporary lounging area, for wind-break platforms, and as helicopter landing pads.

35. There is also a disc on the island, which was brought to the island to disc duck ponds.

I swear under penalty of perjury of the laws of the State of California that the facts stated in this declaration are true.

DATED: July 11, 2016.

John Sweeney