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Attorneys for Point Buckler Club, LLC and John D. Sweeney

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 LAWRENCE S. BAZEL

I, Lawrence S. Bazel, declare as follows:

1. I am a lawyer admitted to practice in California and am counsel for Point Buckler Club, LLC and John D. Sweeney (jointly the "Club") in this matter. I have personal knowledge of the facts in this declaration, and if called as a witness could competently testify to them.

2. Attached as Exhibit 1 is an accurate copy of excerpts from the "Plan of Protection for the Suisun Marsh including Environmental Impact Report" from the Department of Water Resources ("DWR") and dated February 1984.

3. Attached as Exhibit 2 is an accurate copy of excerpts from a document referred to as the Suisun Marsh Protection Plan, which I obtained from the San Francisco Bay Conservation and Development Commission ("BCDC").

4. Attached as Exhibit 3 is an accurate copy of excerpts from a document entitled The Suisun Marsh Management Program, as obtained from the Suisun Resource Conservation District ("SRCD").

5. Attached as Exhibit 4 is an accurate copy of a document (the individual management plan for Point Buckler), which I obtained from SRCD through a Public Record Act request. Note that the cover page provides a date from 1980, whereas page 4 has it stamped received by BCDC in 1984. For convenience, pagination has been added. I have reviewed the relevant BCDC and SRCD files and have not found any later or modified plan. Nor has BCDC asserted that any later or modified plan exists.

6. Attached as Exhibit 5 is an accurate copy of a document entitled Conditions At Point Buckler, Response To Cleanup And Abatement Order R2-2015-0038, which was prepared by Applied Water Resources and submitted to the Regional Board in September 2015 on behalf of Point Buckler Club, LLC.

7. Attached as Exhibit 6 is an accurate copy of the cleanup and abatement order issued by the Regional Board in September 2015.

8. Attached as Exhibit 7 is an accurate copy of an e-mail I wrote to Dyan Whyte dated January 31, 2016.

9. Attached as Exhibit 8 is an accurate copy of a letter I wrote to Bruce Wolfe dated October 16, 2015.

10. The Club filed a petition with the State Water Resources Control Board ("State Board") and requested a stay. Attached as Exhibit 9 is an accurate copy of the Club's amended petition to the State Board, without the exhibits. The State Board did not issue a stay. In January 2016, the State Board denied the petition.

11. The cleanup and abatement order's second deadline was postponed until January 1, 2016. During meetings with staff in October and November 2015, the Club requested that the deadline be postponed again, and explained that if the deadline were not postponed it would have to go to court to obtain a stay. On December 1, 2015, the Club submitted a letter offering to do

additional investigations in return for a postponement of the January 1 deadline. Attached as Exhibit 10 is an accurate copy of my letter.

12. Attached as Exhibit 11 is an accurate copy of a letter I received from Dyan Whyte of the Regional Board.

13. Attached as Exhibit 12 is an accurate copy the Club's "Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief" filed in Solano Superior Court on December 23, 2016.

14. Attached as Exhibit 13 is an accurate copy of the Club's "Ex Parte Application for Stay of Administrative Decision; or, in the Alternative, for a Temporary Restraining Order and Order to Show Cause Regarding Preliminary Injunction" filed in Solano Superior Court on December 28, 2016.

15. Attached as Exhibit 14 is an accurate copy of an order granting the Club's ex parte application for a stay issued by the Solano Superior Court on December 29, 2015.

16. Attached as Exhibit 15 is an accurate copy of a memorandum from Dyan Whyte to Bruce Wolfe dated January 4, 2016.

17. Attached as Exhibit 16 is an accurate copy of a document signed by Bruce Wolfe on January 5, 2016 that rescinded the cleanup and abatement order.

18. Attached as Exhibit 17 is an accurate copy of an email chain between Dyan Whyte and me. Because staff insisted on conducting an inspection before he parties met, there was no discussion about whether the Club would proceed with the work it had outlined in its December 1 letter, and no request by staff that the Club perform the work in the letter notwithstanding the rescission of the September 2015 order. After many e-mails, the Club agreed to an inspection in early March.

19. Attached as Exhibit 18 is an accurate copy of an unsigned version of the "Affidavit for Inspection Warrant" that was provided to me by Regional Board staff.

20. Attached as Exhibit 19 is an accurate copy of a letter I sent to Solano Superior Court objecting to some of the statement made in the "Affidavit for Inspection Warrant".

21. Attached as Exhibit 20 is an accurate copy of the "Amended Affidavit for Inspection Warrant" signed by Benjamin Martin and dated stamped March 22, 2016 by the Solano Superior Court.

22. Attached as Exhibit 21 is an accurate copy of a letter I sent to Solano Superior Court objecting to some of the statement made in the "Amended Affidavit for Inspection Warrant".

23. In April 2016 BCDC issued a cease and desist order, and the Club and Mr. Sweeney filed suit. Among other things, BCDC's order called for the submission of a permit application. BCDC followed with a "Complaint for the Administrative Imposition of Penalties". In June, the parties reached agreement on a stipulation postponing several of the dates.

24. In June, the Club met with staff, as well as with BCDC and the U.S. Environmental Protection Agency. The Club outlined its intent to submit permit applications to the Corps of Engineers, to Regional Board staff, and to BCDC. The Club explained that it wanted to use the island for kiteboarding and for a duck club, complete with a duck pond or duck ponds, but that it could restore tidal flow to the remainder of the island. Staff, as well as EPA and BCDC, supported the Club's plan to submit applications, and had no objection to the use of the island for kiteboarding and as a duck club. Although substantial issues remain to be resolved, the permitting process provides a method for achieving a resolution that can enhance the beneficial use of recreation on the island, while restoring tidal flows to the island.

25. Attached as Exhibit 22 is an accurate excerpt showing the relevant part of "Figure F-8" from the Regional Board's Technical Report.

26. Attached as Exhibit 23 is an accurate excerpt showing the relevant part of "Figure F-8" from the Regional Board's Technical Report with additional blue writing showing where, according to the figure, the high tide line is above the crest of the levee in about 14 places, or nearly 2000 feet along the top of the levee.

27. The tide data at Port Chicago (on which the Technical Report relied) show no high tides anywhere near 8.2 since the levee was repaired. Attached as Exhibit 24 is an accurate copy of data I obtained from the NOAA Port Chicago website, showing high and low tide data at Port Chicago from March 1, 2014 to May 31, 2016.

28. Attached as Exhibit 25 is an accurate copy of excerpts of a report prepared by URS and entitled Phase 2 Risk Reduction Report Section 13 Final.

29. On July 3, 2016, the tide at Port Chicago reached the same level it had on February 17, as I determined from comparing the data in Exhibit 24 with the data reported by the Technical Report.

30. Attached as Exhibit 26 is an accurate copy of Figure D-10 in the Technical Report.

31. Attached as Exhibit 27 is an accurate copy of Figure D-11 in the Technical Report.

32. Attached as Exhibit 28 are accurate enlargements of part of Figure D-10 in the Technical Report.

33. Attached as Exhibit 29 is an accurate copy of e-mails between Dyan Whyte and me.

34. Attached as Exhibit 30 is an accurate copy of extracts from the Basin Plan for the San Francisco Bay Region.

35. Attached as Exhibit 31 is an accurate copy of excerpts from the 2005 Revised Suisun Marsh Preservation Agreement that DWR entered into with the U.S. Bureau of Reclamation, the California Department of Fish and Game, and the Suisun Resource Conservation District.

36. Attached as Exhibit 32 is an accurate copy of Regional General Permit 3 ("RGP3") issued by the San Francisco District, U.S. Army Corps of Engineers, and date stamped July 8, 2013, as obtained from the Corps website

37. Attached as Exhibit 33 is an accurate copy of a letter from the Regional Board certifying that RGP3 is in compliance with California law, as obtained from SRCD.

38. Attached as Exhibit 34 is an accurate copy of the list of clubs within the Suisun Resource Conservation District, which I obtained from the SRCD website.

39. Attached as Exhibit 35 is an accurate copy of the Regional Board's certification for the Suisun Marsh Exterior Levee Maintenance Dredging permit, as obtained from SRCD.

40. Attached as Exhibit 36 is an accurate copy of the federal Water Quality Act of 1965.

41. Attached as Exhibit 37 is an accurate copy of a letter I received from Marnie Ajello dated June 8, 2016.

42. Attached as Exhibit 38 is an accurate copy of a letter I sent to Marnie Ajello dated May 27, 2016.

43. Attached as Exhibit 39 is an accurate copy of a letter I sent to Marnie Ajello dated July 11, 2016.

44. Attached as Exhibit 40 is an accurate copy of a letter I sent to Marnie Ajello dated May 25, 2016.

45. Attached as Exhibit 41 is an accurate copy of a figure showing the Delta's legal boundaries, which I obtained from the website of the Public Policy Institute of Calfornia.

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.

Lawrence S. Bazel