



June 14, 2016

Benjamin Martin
San Francisco Bay Regional Water Quality Control Board
1515 Clay St., 14th Floor
Oakland, CA 94612

Re: Pending Enforcement Action, John D. Sweeney and Point Buckler Club, LLC

Dear Mr. Martin:

Save The Bay supports the pending enforcement action by the San Francisco Bay Regional Water Quality Control Board in response to violations of law and regulations on Point Buckler Island. We submit these comments on that action for the Board's consideration, and strongly encourage the Board to pursue the enforcement action and seek compensation and penalties for harm caused to a crucial ecosystem by violations committed by John D. Sweeney and the Point Buckler Club, LLC.

Save The Bay and our 50,000 supporters have worked for 55 years to protect and restore San Francisco Bay and the Suisun Marsh for people and wildlife. Protection and restoration of Bay wetland habitat has been a high priority activity for which Save The Bay and many other organizations and individuals have worked assiduously, investing decades of work and hundreds of millions of public and private dollars. Intentional actions to destroy wetland habitat are not only illegal, they are offensive and an affront to the people and wildlife of the Bay Area.

We appreciate the detailed documentation by the San Francisco Bay Regional Water Quality Control Board of the illegal actions of John D. Sweeney and the Point Buckler Club, LLC on Point Buckler Island,¹ indicating that they caused the loss of nearly 30 acres of tidal marsh that is designated critical habitat for the endangered Delta smelt and other fish species. Threatened and endangered plants have been documented on the island, which also offers habitat for special status bird species.

We note that the unlawful activities documented by the Board began in 2012 and apparently have continued to the present day. In fact, Mr. Sweeney's intransigence suggests that no work to remediate harm caused will be initiated or completed without strict requirements and expeditious timelines imposed and enforced by the Board. Therefore, we request that the Board should strengthen the Tentative CAO by adding a deadline for completion of mandated habitat restoration on Point

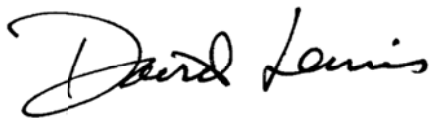
¹ Tentative Order, Adoption of Cleanup and Abatement Order for Point Bucker Island, and Administrative Civil Liability, Complaint No. R2-2016-1008

Buckler Island, and by requiring Mr. Sweeney to submit a Mitigation and Monitoring Plan that will provide compensatory mitigation for temporary and permanent impacts at no less than a 2:1 ratio. The documented circumstances of this case include such egregious violations that this high level of compensatory mitigation is clearly warranted.

We also submit that the documented severity of these violations warrants the imposition of \$4.6 million in fines – this amount is reasonable and should not be reduced. Not only was Mr. Sweeney aware of the legal requirements for the work on the island, he failed to take any steps to remediate the violations, and has actively sought to interfere with the Board's investigation of violations. In light of Mr. Sweeney's intransigence, the Board's applied factor for Cleanup and Cooperation is inadequate and should be increased to 1.5. In fact, the Board's decision to decrease the maximum administrative civil liability of \$39 million and the base fine of \$11.3 million was premature. Mr. Sweeney should have to show economic hardship or inability to pay before any reduction by the Board.

The Board's enforcement action is crucial to protect the critically endangered wetlands habitats of the San Francisco Bay, Suisun Marsh, and Sacramento-San Joaquin Delta. The people of California require regulatory agencies to enforce state law to protect our interest in a healthy environment. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "David Lewis". The signature is written in a cursive, flowing style with a large initial "D".

David Lewis
Executive Director