



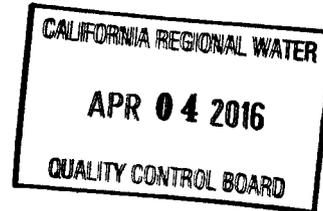
**DEPARTMENT OF THE ARMY**  
**SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
**1455 MARKET STREET, 16<sup>TH</sup> FLOOR**  
**SAN FRANCISCO, CALIFORNIA 94103-1398**

MAR 28 2016

Regulatory Branch

File Number: 2015-00230S

Mr. John Sweeney  
Point Buckler LLC  
171 Sandpiper Drive  
Pittsburg, California 94565



Dear Mr. Sweeney:

This letter is in regard to your property, Point Buckler Island, located within the Suisun Bay, near Suisun City, Solano County, California (APN #0090020010). During a site visit on October 21, 2015, my staff confirmed the unauthorized discharge of fill material into jurisdictional tidal waters of the U.S.

All discharges of dredged or fill material occurring below the plane of ordinary high water in non-tidal waters of the United States (U.S.), or below the high tide line in tidal waters of the U.S., and within the lateral extent of wetlands adjacent to these waters typically require Department of the Army authorization and the issuance of a permit under Section 404 of the Clean Water Act. Waters of the U.S. generally include all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters including interstate wetlands; all other waters, the use degradation or destruction of which could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the U.S.; tributaries of the waters identified above; the territorial seas; and wetlands adjacent to all the waters identified above.

The provisions of 33 C.F.R. § 326.3 direct the District Engineer to commence an initial investigation of any unauthorized work, structures, and associated dredged or fill material discharges in waters of the U.S. to determine the appropriate administrative and/or legal actions to be pursued. In the event the alleged violation is subsequently confirmed, administrative actions could include a voluntary restoration of the site, an order requiring the completion of initial corrective measures to alleviate imminent adverse impacts to aquatic resources, and/or the issuance of an after-the-fact Department of the Army Permit to authorize any remaining work, structures, and dredged or fill material discharges in waters of the U.S.. Administrative actions could further include the use of Class I or Class II civil fines for violations under Section 404 of the Clean Water Act. Legal actions could include the initiation of civil or criminal proceedings when circumstances warrant such action.

Section 309 of the Clean Water Act (33 U.S.C. § 1319) provides penalties for violation of Section 301 (33 U.S.C. § 1311) of the Clean Water Act. Pursuant to Section 301, it is illegal to discharge any dredged or fill material without a permit issued by the Corps of Engineers pursuant to Section 404 (33 U.S.C. § 1344) of the Clean Water Act. A person may be subject to civil penalties of as much as \$37,500 per day for each violation. Furthermore, the law also allows criminal penalties for violations. For the most egregious of those violations, the law provides for imprisonment for as much as 15 years, or fines of up to \$1,000,000 for a violation (or even higher in some circumstances) (33 U.S.C. § 1319; 18 U.S.C. § 3571).

Please note that the U.S. Environmental Protection Agency (EPA) will be the lead enforcement agency and determine the appropriate enforcement response to resolve this violation in accordance with the 1989 Memorandum of Agreement concerning federal enforcement for the Section 404 program of the Clean Water Act (MOA), and the 2005 Field Level Agreement between the San Francisco District and EPA, Region IX, concerning federal enforcement for the Section 404 Program of the Clean Water Act of 1972.

You are again advised not to proceed with any further dredge or fill activities. If you have any questions as to what actions may be necessary to resolve the violation, **please contact Mr. David Wampler** of the Water Enforcement Section II, U.S. Environmental Protection Agency, Region IX (EN-3-2), 75 Hawthorne Street, San Francisco, California 94105, telephone 415-972-3975.

Sincerely,

  
Aaron O. Allen, Ph.D.  
Acting Chief, Regulatory Branch

Copy Furnished:

U.S. EPA, San Francisco CA (Attn. David Wampler, Bill Lee)  
U.S. NMFS, Santa Rosa, CA (Attn. Gary Stern)  
U.S. USFWS, Sacramento, CA (Attn. Kim Turner)  
BCDC, San Francisco, CA (Adrienne Klein, Brad McCrea)  
CA RWQCB, Oakland CA (William Hurley, Anges Farres)  
CA DFWS, Napa, CA (Attn. Annee Ferranti)

Huffman-Broadway Group, Inc., San Rafael CA (Attn. Mr. Terry Huffman)  
Briscoe Ivester & Bazel LLP, San Francisco CA (Attn. Mr. John Briscoe)