

1 JOHN BRISCOE (053223)
2 LAWRENCE S. BAZEL (114641)
3 BRISCOE IVESTER & BAZEL LLP
4 155 Sansome Street, Seventh Floor
5 San Francisco, CA 94104
6 Tel (415) 402-2700
7 Fax (415) 398-5630
8 jbriscoe@briscoelaw.net
9 lbazel@briscoelaw.net

10 Attorneys for Plaintiff
11 POINT BUCKLER CLUB, LLC

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SOLANO

14 POINT BUCKLER CLUB, LLC,

15 Petitioner and Plaintiff,

16 v.

17 BRUCE H. WOLFE, Executive Officer of the
18 California Regional Water Quality Control Board,
19 San Francisco Bay Region; CALIFORNIA
20 REGIONAL WATER QUALITY CONTROL
21 BOARD, SAN FRANCISCO BAY REGION;
22 and DOES 1 through 20;

23 Respondents and Defendants.

No. FCS046410

NOTICE OF MOTION AND MOTION FOR
DETERMINATION AND PRELIMINARY
INJUNCTION

Date: June 28, 2016

Time: 9:30am

Dept.: 3

Hon. Harry S. Kinnicutt

Trial date: None set

Action filed: December 23, 2015

24 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

25 PLEASE TAKE NOTICE that on June 28, 2016, at 9:30 a.m. or as soon afterwards as the
26 Court may hear this matter, in Department 3 of Solano Superior Court, 600 Union Avenue, Fairfield,
27 California, Plaintiff and Petitioner Point Buckler Club, LLC (the "Club") will move, and hereby
28 does move, for a determination in accordance with Code of Civil Procedure § 1094.5 that defendants
and respondents California Regional Water Quality Control Board, San Francisco Bay Region and
Bruce H. Wolfe, in his capacity as Executive Officer of the Regional Board ("the Regional Board")
acted in excess of their jurisdiction in issuing a cleanup and abatement order related to levee
maintenance and repairs and related work on Point Buckler Island, and for a preliminary injunction
prohibiting them from re-issuing the cleanup and abatement order, from issuing a cleanup and

1 abatement order requiring the Club to remove or destroy any part of the levee at Point Buckler
2 Island, or otherwise issuing another cleanup and abatement order against the Club for work done at
3 Point Buckler Island in excess of their jurisdiction.

4 This motion is made on the grounds that Code of Civil Procedure § 1094.5 provides a court
5 with authority to determine that an agency has proceeded in excess of its jurisdiction, and on the
6 grounds that a court has authority to issue an injunction where an agency has proceeded in excess of
7 jurisdiction. A preliminary injunction should issue because, as more fully explained in the
8 accompanying memorandum, the Club is likely to prevail on the merits and the balance of equities
9 tips in favor of the Club.

10 This motion is based on this notice, the attached memorandum in support, the declaration of
11 John Sweeney, the declaration of Lawrence S. Bazel, the files and records in this action, and any
12 additional evidence and argument that the Court may properly receive at or before the hearing.

13
14 DATED: March 28, 2016

BRISCOE IVESTER & BAZEL LLP



15
16 By: _____
17 Lawrence S. Bazel
18 Attorneys for Plaintiff
19 POINT BUCKLER CLUB, LLC
20
21
22
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 I declare that I am over the age of eighteen years and not a party to this action. I am
3 employed in the City and County of San Francisco, and my business address is 155 Sansome Street,
4 Suite 700, San Francisco, California 94104.

5 On March 28, 2016, at San Francisco, California, I served the attached document(s):

6 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

7 On the following parties:

8 Matthew G. Bullock
9 Deputy Attorney General
10 Office of the Attorney General
11 455 Golden Gate Avenue,
12 Suite 11000
13 San Francisco, CA 94102
14 Telephone: (415) 703-5546
15 Fax: (415) 703-5480

16 Matthew J. Goldman
17 Deputy Attorney General
18 Office of the Attorney General
19 1300 I Street, Suite 125
20 P.O. Box 944255
21 Sacramento, CA 94244
22 Telephone: (916) 324-4223
23 Fax: (916) 327-2319

24 *Attorneys for California Regional
25 Water Quality Control Board, San
26 Francisco Bay Region; Bruce H.
27 Wolfe, Executive Officer Of The
28 Regional Board*

29 **BY OVERNIGHT DELIVERY:** On the date written above, I delivered the Federal Express package to a location
30 authorized by Federal Express to receive documents for pickup. The package was placed in a sealed envelope or package
31 designated by Federal Express with delivery fees paid or provided for, addressed to the persons on whom it is to be
32 served at the addresses shown above.

33 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** On the date written above, I e-mailed the documents to the
34 persons on the service list at the e-mail addresses listed above. I did not receive, within a reasonable time after
35 transmission, any electronic message or other indication that transmission was unsuccessful.

36 I declare under penalty of perjury under the laws of the State of California that the foregoing
37 is true and correct and that this document was executed on March 28, 2016 at San Francisco,
38 California.


Arlene Won