JOHN BRISCOE (053223)
LAWRENCE S. BAZEL (114641)
BRISCOE IVESTER & BAZEL LLP
155 Sansome Street, Seventh Floor
San Francisco, CA 94104
Telephone (415) 402-2700
Fax (415) 398-5630
jbriscoe@briscoelaw.net
lbazel@briscoelaw.net

Attorneys for Petitioners and Plaintiffs
JOHN D. SWEENEY and POINT BUCKLER CLUB, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SOLANO

JOHN D. SWEENEY and POINT BUCKLER CLUB, LLC,

Petitioners and Plaintiffs,

v.

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION; LAWRENCE J. GOLDZBAND, Executive Director of the San Francisco Bay Conservation and Development Commission; CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION; BRUCE H. WOLFE, Executive Officer of the California Regional Water Quality Control Board, San Francisco Bay Region; and DOES 1 through 20;

Respondents and Defendants.

And related cross-claim.

No. FCS048136

~~[PROPOSED]~~ STATEMENT OF DECISION ON CLEANUP AND ABATEMENT ORDER

Petitioner and plaintiffs John D. Sweeney and Point Buckler Club, LLC ("Plaintiffs") filed this suit challenging Commission Cease And Desist And Civil Penalty Order No. CDO 2016.02 (the "BCDC Order") issued by respondents and defendants San Francisco Bay Conservation and Development Commission and Lawrence J. Goldzband, its Executive Director (jointly "BCDC") and Cleanup and Abatement Order No. R2-2016-0038 (the "CAO") issued by respondents and

defendants California Regional Water Quality Control Board, San Francisco Bay Region and Bruce H. Wolfe, its Executive Officer (jointly the "Regional Board"). Plaintiffs have also filed case no. FCS048861 challenging an administrative civil liability order (the "ACL Order") issued by the Regional Board.

Plaintiffs have moved for a writ of mandate on all three orders. The parties have requested separate statements of decision. This statement covers Plaintiffs' motion for a writ of mandate setting aside the CAO. For the following reasons, the motion is GRANTED.

BACKGROUND

All three orders relate to Point Buckler Island, which is about 39 acres and located in Suisun Marsh. There has been a levee around the island since the 1920s. The island was operated as a duck club, and the levee was used to maintain a relatively constant water level in duck ponds. The Suisun Marsh Preservation Act (the "Preservation Act") requires that an "individual management plan" be prepared for each "managed wetland" (i.e. duck club), and in 1984 BCDC certified an individual management plan for the island. By 2011, however, when John Sweeney purchased the island, the levee had fallen into disrepair and was breached in several places. Three years later, in 2014, Sweeney repaired or reconstructed the levee. Dirt was excavated from an interior "borrow ditch" and placed on the existing levee or inland of it. In late 2014, Sweeney sold the island to Point Buckler Club, LLC, which now owns the island.

In March 2014, shortly after work began on the levee repair, BCDC staff observed the work. BCDC staff knew that the work was being done by Sweeney, and knew Sweeney from conversations related to another island, but made no immediate effort to contact Sweeney or to get him to stop the work. BCDC staff first contacted Sweeney about the work seven months later. In November 2014, BCDC toured the island, gave Sweeney a copy of the individual management plan for the island, and told him that if the repair was consistent with the plan, then no permit was needed for the work. This statement was consistent with the Preservation Act, which provides that no BCDC permit is required for work specified in an individual management plan. (Public Resources Code ("PRC") § 29501.5.)

In January 2015, however, BCDC changed its mind and sent a letter asserting that the individual management plan had expired, and that the levee repair and other activities in the island

violated the Preservation Act because they were implemented without a permit. Although there were discussions and additional correspondence, BCDC took no formal action in 2015.

In September 2015, the Regional Board issued a cleanup and abatement order requiring the restoration of Point Buckler Island. Penalties were not imposed. In December 2015, plaintiff Point Buckler Club, LLC filed case no. FCS046410 in this Court alleging that the Regional Board's order violated due process, and applied for a stay of that order. This Court granted the stay on December 29, 2015. In early January 2016, the Regional Board rescinded the September 2015 order.

Two days later, the Regional Board met with BCDC, spoke with consultants, began the process of re-issuing the September 2015 order, and for the first time began imposing penalties. On May 12, 2016, the Regional Board's consultants issued a Technical Assessment. Within a few days after that, Regional Board issued a proposed cleanup and abatement order and penalty complaint that would have imposed $4.6 million in penalties. BCDC issued a cease and desist order in April 2016 and, in May 2016, a proposed penalty order that would have imposed $952,000 in penalties. Together the proposed penalties amounted to $5.552 million.

In August 2016 the Regional Board held a hearing and issued the CAO, which imposed restoration, mitigation, and monitoring requirements on Plaintiffs.

In October 2016, BCDC's enforcement committee held a hearing on the proposed penalty order and recommended that the penalty should be reduced from $992,000 to $752,000. The Commission held a hearing in November 2016 and issued the BCDC Order, which imposed the penalty of $752,000 and included restoration, mitigation, and monitoring requirements almost identical to the CAO.

In December 2016, the Regional Board held a hearing and issued the ACL Order, which imposed a penalty of $2.828 million on Plaintiffs. The combined penalty imposed by BCDC and the Regional Board is $3.6 million.

In December 2016, Plaintiffs filed case no. FCS048136 challenging the CAO and the BCDC Order. In May 2017, Plaintiffs filed case no. FCS048861 challenging the ACL Order. Plaintiffs argue that each of these orders is invalid and must be set aside in accordance with Code of Civil Procedure ("CCP") § 1094.5.

Plaintiffs' motions for a writ of mandate in case no. FCS048136 were heard on Friday, October 27, 2017. The motion for a writ of mandate in case no. FCS048861 was heard the following Monday, October 30, 2017. The parties filed additional motions, requests, and objections, which were also heard at those times.

SUISUN MARSH PRESERVATION ACT

As its name suggests, the Suisun Marsh Preservation Act was enacted to preserve Suisun Marsh. More than 90% of the marshland—51,700 acres of 55,000 acres— is in duck clubs, which the Preservation Act refers to as "managed wetlands". Duck clubs use levees and tide gates to maintain duck ponds, and they plant vegetation that provides food for ducks and other waterfowl. Ducks prefer artificial duck ponds to natural tidal marsh.

Plaintiffs argue that the Regional Board violated the Preservation Act, and thereby acted in excess of jurisdiction and did not proceed in the manner required by law as required by CCP § 1094.5. This Court agrees.

PRC § 29302(a) imposes "a judicially enforceable duty on state agencies to comply with, and to carry out their duties and responsibilities in conformity with, this division and the policies of the protection plan." The "protection plan" is the Suisun Marsh Protection Plan (the "Protection Plan"), which was prepared in 1976 and continues to provide a blueprint for the preservation of the marsh.

Plaintiffs argue that the CAO violates the policy of the Preservation Act, which is to "preserve and protect" resources such as duck clubs, which exercise "control over the widespread presence of water and the abundant source of waterfowl foods" (PRC § 29002). Plaintiffs also argue that the CAO violates several policies of the Protection Plan, which specify that "recreational use of privately-owned managed wetlands should be encouraged", and that "land and water areas should be managed to achieve...habitat attractive to waterfowl" and "[i]mprovement of...levee systems". (Protection Plan at 29, 30 (amended 2007).) Plaintiffs argue that the CAO would destroy the duck club at Point Buckler, and the Regional Board is hostile to duck clubs and the protection of waterfowl. The Regional Board does not dispute these assertions.

Instead, the Regional Board argues that the Preservation Act does not apply to the CAO. It cites PRC § 29006 for the proposition that the Preservation Act does not limit the power of a state

agency to "enjoin waste or pollution of the marsh or any nuisance". The Regional Board misreads that section, which applies to "the power of the Attorney General to bring an action", but says nothing about administrative orders issued by state agencies. (PRC § 29006(c).) The Regional Board argues that Plaintiffs must comply with both the Preservation Act and the Porter-Cologne Act, which regulates waste discharges. But so must the Regional Board. Because the Regional Board is a state agency, it must comply with the "judicially enforceable duty" imposed on state agencies by PRC § 29302. The Court finds that the levee and excavation work was done to restore the duck ponds at Point Buckler and provide waterfowl with food and habitat, and that the CAO harms waterfowl and their food supply and habitat by prohibiting Plaintiffs from repairing the levee, establishing duck ponds, and planting duck food. The Court finds that the Regional Board can comply with the requirements of the Preservation Act without violating the Porter-Cologne Act, and that the two statues are not in conflict here. The Regional Board has therefore not acted in conformity with the Preservation Act and the policies of the Protection Plan. The CAO should be set aside on this ground.

CONDITION OF POLLUTION

The Porter-Cologne Act authorizes a regional board to issue a cleanup and abatement order if specified conditions are met. (Water Code § 13304.) Here, the CAO asserts that those conditions are met because there was a "discharge of waste" into "waters of the state" that "created a condition of pollution". Plaintiffs argue that none of these elements was met, and therefore that the Regional Board acted in excess of jurisdiction and did not proceed in the manner required by law in violation of CCP § 1094.5.

Plaintiffs begin with the last of the elements, the "condition of pollution". A "condition of pollution" is different from a nuisance, and the Regional Board concedes that the levee work was not a nuisance. The Porter-Cologne Act defines "condition of pollution" as an "alteration of the quality of the waters of the state by waste" that "unreasonably affects" either the "waters for beneficial uses" or the facilities that serve those uses. (Water Code § 13050(l)(1).) Plaintiffs argue that, for several reasons, the levee work did not "unreasonably" affect the beneficial uses. This Court agrees.

The Legislature determined that duck clubs do not unreasonably affect beneficial uses when

it enacted the Suisun Marsh Preservation Act, which requires the protection and preservation of duck clubs. Plaintiffs analogize to those cases holding that an activity cannot be considered a nuisance when it is specifically authorized by statute. Although activities authorized by statute can be a nuisance if they are conducted in an improper manner, the manner in which the work was conducted is not at issue here. The Regional Board asserts harm from closing the breaches in the levee. It does not assert that the harm could have been avoided if the breaches were closed in some other manner.

In addition, the Court finds that the levee work did not unreasonably affect beneficial uses. The Porter-Cologne Act specifies that the independent judgment standard shall apply to judicial review of cleanup and abatement orders (Water Code § 13330(e).) Although the CAO finds that the levee work unreasonably affected beneficial uses, that finding was not supported by the weight of the evidence. The Porter-Cologne Act defines "beneficial uses" to include "recreation" and "preservation and enhancement of...wildlife". (Water Code § 13050(f).) The levee work promoted those beneficial uses by taking a necessary step in the restoration of functioning duck ponds. Promoting a beneficial use is not unreasonably affecting it. The Regional Board asserts that the levee work caused harm to other beneficial uses mostly related to fish, but the evidence was highly speculative. There was no direct evidence that fish used the small channels that were closed by the levee repair, and there was no evidence that the levee repair significantly reduced the amount of organic material that was available to fish in the waters around the island. There was conflicting expert testimony on whether the small channels on the island tended to shelter fish from predators, or on the contrary harmed fish by attracting predators. Because the benefits of the levee are clear and certain, and the asserted harm to fish was unquantified and uncertain, the Court finds that any harm the levee work may have caused to beneficial uses did not unreasonably affect those uses.[1]

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[1] Water Code § 13304 authorizes the issuance of a cleanup and abatement order when a person "discharges waste into the waters of this state in violation of any...prohibition issued by a regional board". Although the CAO did not assert that it was being issued on this ground, the Regional Board now argues that the levee work violated a prohibition, contained in the "basin plan", on the discharge of "earthen material... in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters or to unreasonably affect... beneficial uses." Although the CAO included a finding to this effect, the finding was not supported by the weight of the evidence. As discussed in the text, the levee work did not unreasonably affect beneficial uses. The Court finds that the actions of Plaintiffs at issue did not cause deleterious bottom deposits, turbidity, or discoloration in surface waters.

The Regional Board therefore lacked authority to issue the CAO. The CAO should be set aside on this ground.

WASTE

Plaintiffs argue that the dirt used to repair the levee was not "waste". This Court agrees. The Porter-Cologne Act defines "waste" to include "sewage and any and all other waste substances" from a broad range of human sources, but does not define what a waste is. In this situation, a court applies the commonly understood meaning of "waste", which is something discarded as worthless or useless. (*Waste Management of the Desert v. Palm Springs Recycling Center, Inc.* (1994) 7 Cal.4th 478, 485.) Here, the dirt used for the levee work was a valuable building material, not something discarded as worthless or useless.

The Regional Board argues that dirt is always a waste, regardless of whether it is discarded. For this proposition, it cites *Lake Madrone Water Dist. v. State Water Resources Control Bd.* (1989) 209 Cal.App.3d 163. *Lake Madrone* held that concentrated sediment flushed from a dam was "waste" regulated by the Porter-Cologne Act. (*Id.* at 171.) Because the flushed sediment was being discarded as something worthless or useless, *Lake Madrone* does not support the Regional Board's argument that dirt is "waste" even when it is not discarded as useless.

In circumstances closer to those here, a federal court has distinguished *Lake Madrone* and held that "building a house" is not a discharge of waste, even though the house might generate stormwater runoff into Lake Tahoe. (*Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency* (D.Nev. 1999) 34 F.Supp.2d 1226, 1254, overruled on other grounds (9th Cir. 2000) 216 F.3d 764, 771, affirmed (2002) 535 U.S. 302, 312.) Here, the Regional Board does not assert that the levee work will cause runoff or anything else that might be considered a discharge of waste. The only question is whether the dirt placed to construct a valuable improvement is a waste.

The U.S. Army Corps of Engineers, which administers the permitting program for dredge and fill material under the federal Clean Water Act, has taken the same position that Plaintiffs assert here. The Corps, in a letter to the State Water Resources Control Board, has asserted that the definition of "waste" under the Porter-Cologne Act does not include discharge of dredge or fill materials, and that the Porter-Cologne Act does not authorize state agencies to reregulated dredge

and fill operations.

The Court finds that Plaintiffs' placement of dirt to repair or reconstruct the levee was not the discarding of a material as valueless or useless. The dirt was not a waste, and the Regional Board lacked authority to issue the CAO. The CAO should be set aside on this ground.

DISCHARGE

Among the unauthorized activities the CAO identifies are the excavation of ditches and the removal of vegetation. The Regional Board also objected to the keeping of pet goats on the island, on the grounds that the goats might eat the vegetation. Plaintiffs argue that a "discharge" under the Porter-Cologne Act does not include the removal of material, and is therefore not subject to a cleanup and abatement order. This Court agrees.

The Porter-Cologne Act does not define "discharge". Google defines "discharge" as to "allow (a liquid, gas, or other substance) to flow out from where it has been confined". Merriam-Webster's online dictionary defines the word as "to give outlet or vent to" and "emit". The ordinary meaning of "discharge", therefore, does not include a removal. Federal cases have reached the same conclusion for the word "discharge" in the Clean Water Act. (*E.g. National Mining Association v. United States Army Corps of Engineers* (1998) 145 F.3d 1399, 1404.) Under both the ordinary definition and federal law, therefore, the removal of material is not a "discharge". The Regional Board lacked authority to issue a CAO regulating activities that are not discharges. The CAO should be set aside on this ground.

WATERS OF THE STATE

The Porter-Cologne Act defines "waters of the state" as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code § 13050(e).) But it does not define where a surface water ends and dry land begins. Plaintiffs argue that no matter how the phrase is defined, it does not apply to dry land, and that most of the work was done on dry land. This Court agrees.

The Regional Board's consultants initially opined that the interior of the island was inundated by the tides every day. This conclusion was based on their calculations about how high the tides were at the island. Sweeney then testified that in the many months he had been on the

island he had never seen the interior inundated (although he had seen water in the small channels and ditches). In response, the Regional Board's consultants changed position and opined that the interior was rarely inundated by the tides. But they did not admit that they changed their opinion, they did not explain why their initial calculations had been wrong, and they did not make any corrections to their calculations. The Court finds that the Regional Board's consultants lack credibility, that their opinions on this issue should be given no weight, and that the interior of the island (except for the channels and ditches) was dry land rather than waters of the state. Water Code § 13304 does not give the Regional Board authority to issue a cleanup and abatement order for the placement of dirt in areas that are not waters of the state. Except for those areas in which dirt was placed in channels or ditches, the dirt was placed on dry land, not waters of the state. The CAO should be set aside on this ground.

WATER CODE § 13267

The CAO requires Plaintiffs to submit technical reports in accordance with Water Code § 13267. That section provides that "[t]he burden, including costs, of these reports shall be a reasonable relationship to the need for the report and the benefits to be obtain", and specifies that the "regional board shall provide the person with a written explanation". (Water Code § 13267(b)(1).) The CAO includes a conclusory statement asserting that it complies with § 13267, but does not include the written explanation or otherwise explain why the burden bears a reasonable relationship to the need. Plaintiffs argue that the CAO's conclusory statement does not comply with the requirements of § 13267. This Court agrees.

In the case most closely on point, the California Supreme Court concluded that a conclusory finding was not sufficient. (*Voices of the Wetlands v. State Water Resources Control Board* (2011) 52 Cal.4th 499, 511-513 (interpreting cost-benefit analysis required by § 316(b) of the federal Clean Water Act).) By requiring technical reports without meeting the requirements of Water Code § 13267, the Regional Board exceeded its jurisdiction and did not proceed in the manner required by law. The CAO should be set aside on this ground.

FAIR TRIAL

A party can establish that an agency has violated that party's "constitutional due process right

to an impartial tribunal" by establishing that "rules mandating an agency's internal separation of functions and prohibiting ex parte communications" have not been observed, or by showing that a particular combination of circumstances (sometimes referred to as the "totality of the circumstances") creates an unacceptable risk of bias. (*Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 741.) Plaintiffs argue that the Regional Board did not separate functions, and that the totality of the circumstances created an unacceptable risk of bias. This Court agrees.

The Regional Board admits that, when the first cleanup and abatement order was issued in September 2015, functions had not yet been separated. By mid-2016, however, when proceedings on the CAO were underway, the Regional Board had identified a prosecution team and an advisory team. For the preliminary procedural issues, such as when the hearing would take place, Plaintiffs and the prosecution team submitted their arguments to the advisory team, and the advisory team ruled on them. But neither the advisory team nor the Regional Board ruled on the principal factual and legal issues in the case. The California Administrative Procedure Act ("APA") specifies that "[t]he decision shall be in writing and shall include a statement of the factual and legal basis for the decision." (Gov. Code § 11425.50(a).) Here the only writing is the CAO, and the CAO was drafted by the prosecution team rather than the advisory team. Although some minor modifications were made to the CAO at the hearing, they were made only with the approval of the prosecution team. The Court finds that the Regional Board appeared to be biased in favor of the prosecution team, and against Plaintiffs. The factual and legal issues raised by Plaintiffs deserved to be taken seriously, but they were not evaluated and ruled on. The advisory team, which included two lawyers, could have prepared an analysis and recommended decision on the legal issues that could have been adopted by the Regional Board. Technical staff on the advisory team could have prepared an analysis of the factual issues. By not ruling on the issues raised by Plaintiffs, the Regional Board gave the impression that it did not have to comply with the law, and that the result was a foregone conclusion.

Plaintiffs also argue that the Regional Board did not allow sufficient time for the trial. This Court agrees. Although Plaintiffs requested a full hearing similar to one held by the State Water Resources Control Board, the advisory team initially concluded that a half hour was sufficient for

Plaintiffs to try their case. When Plaintiffs repeated their request and asked for 7 hours, the advisory team increased Plaintiffs' allotted time to 1 hour, which the advisory team deemed enough to examine witnesses, introduce exhibits, cross-examine opposing witnesses, and rebut the evidence against Plaintiffs. The Court finds that 1 hour is not enough to try a case as complex as this one, and that the allotted time was not enough to give Plaintiffs a fair opportunity to present their opening statement, examine their percipient and expert witnesses, cross-examine the prosecution team's witnesses, and make their closing argument. The Court also finds that the short time gave the appearance that the Regional Board was not interested in determining the truth, but rather than it intended and expected to rely on staff, as it usually did, to provide the facts and law. The Regional Board has the responsibility of deciding all issues needed to resolve the dispute, and it should take the time required to understand the issues and make the decisions, rather than delegating those tasks to staff. Because the advisory team did not take an active role in the judicial decision-making function on the substantive legal and factual issues in dispute, the Regional Board relied on the prosecution team, which was biased in favor of its own position.

When an agency is called on to conduct an adjudicatory hearing, it should fairly adjudicate the legal and factual issues. Here Plaintiffs made strong legal and factual arguments that were not seriously considered by the decision-makers, who refused to rule on them. Instead, the findings and decision were principally determined by the prosecution team, which expressed only its own position in the CAO. Under the totality of the circumstances, Plaintiffs did not receive a fair trial. The CAO should be set aside on this ground.

FINDINGS NOT SUPPORTED BY THE EVIDENCE

Plaintiffs argue that at least five key findings were not supported by the weight of the evidence. Four of the five have been discussed in the sections in which they were relevant. The Court agrees that those four findings were not supported by the weight of the evidence. The CAO should be set aside on this ground.

OTHER ISSUES

The Regional Board submitted an administrative record of about 17,000 pages. Plaintiffs object to about 14,400 of those pages on the ground that they were not submitted as part of the CAO

proceeding. Plaintiffs analogize to the record on appeal, and argue that the administrative record should consist of the documents included in a clerk's transcript (the written documents submitted by the parties and the decision-maker) and the reporter's transcript. The 14,400 pages at issue consist mostly of technical reports that were cited in the Technical Assessment, but not submitted to the Regional Board. The Court agrees that these documents are not properly part of the administrative record. Plaintiffs' objections are SUSTAINED.

The Regional Board moves to strike Plaintiffs' opening brief on the ground that it incorporated material from another brief and exceeded the page limits. The Regional Board's motion is DENIED.

On July 20, 2017, the Regional Board filed an ex parte application for a mandatory temporary restraining order and order to show cause to enforce the CAO and require Plaintiffs to implement an "interim corrective action plan". On July 26, this Court issued an Order After Hearing that denied the application and set a hearing on the order to show cause. That hearing was continued to October 27, 2017. Because the Court has determined that the CAO should be set aside, the Regional Board's motion to enforce the CAO is now DENIED.

The parties make several requests for judicial notice, to augment the record, and to correct the record. None of these requests appears necessary for resolving the principal issues in this case, and there is no need to rule on them.

This statement of decision resolves the first cause of action in Plaintiffs' amended complaint. The second cause of action, asserting a CEQA cause of action, was resolved by demurrer. Plaintiffs' third cause of action alleges a violation of the Bagley-Keene Act, and has been withdrawn. Plaintiffs' fourth cause of action is for inverse condemnation. The count is based on the concept that the CAO took a valuable property right from Plaintiffs for public use. Because the Court is granting Plaintiffs' motion for a writ to set aside the CAO, the inverse condemnation count is now moot. Plaintiffs' fifth cause of action alleges a violation of the Public Records Act. However, Plaintiffs are willing to waive this argument if the Court rules in their favor on the writ. This issue is therefore waived. All causes of action in Plaintiffs' amended complaint are now fully resolved.

The Regional Board has filed a cross-claim alleging that Plaintiffs have violated the CAO.

Because the CAO should be set aside, the cross-claim is now moot.

CCP § 1094.5(f) specifies that "[t]he court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ." Judgment should be entered in favor of Plaintiffs. A writ of mandate should issue commanding the Regional Board to set aside the CAO.

IT IS SO ORDERED.

Date: DEC 26 2017

HARRY S. KINNICUTT
Judge of the Superior Court

PROOF OF SERVICE

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

On November 14, 2017, at San Francisco, California, I served the attached document(s):

[PROPOSED] STATEMENT OF DECISION ON CLEANUP AND ABATEMENT ORDER

On the following parties:

Shari Beth Posner
Deputy Attorney General
Office of the Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 879-0856
Fax: (510) 622-2270
Email: Shari.Posner@doj.ca.gov

Daniel S. Harris
Matthew G. Bullock
Deputy Attorneys General
Natural Resources Law Section
Office of the Attorney General
California Department of Justice
1515 Clay Street, 20th Floor
P,O, Box 70550
Oakland, California 94612-0550
Telephone: (510) 622-2270
Fax: (510) 622-2270
Email: Daniel.Harris@doj.ca.gov
Matthew.Bullock@doj.ca.gov

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on November 14, 2017, at San Francisco, California.

Arlene Won