

DECLARATION OF ADRIENNE KLEIN

I, Adrienne Klein, declare as follows:

1. Mr. Sweeney has stated at least three times since the inception of the BCDC enforcement action, that he was informed that Point Buckler is not located in BCDC jurisdiction. I never made this statement. I believe Mr. Sweeney drew false conclusions from second hand information as explained below.
2. During a site visit to the Point San Pablo Yacht Harbor (PSPYH) on November 18, 2010, I observed and photographed a series of stored boat docks moored on the east side of the marina basin. I concluded that they were stored because they were tied together and not being used to moor vessels. Upon inquiry, the owners of the PSPYH, Eric and Roslyn Johnson, informed me that Rick Moseley of Salt River Construction, had asked if he could store the docks at the PSPYH and they had acquiesced.
3. On July 14, 2011, Ande Bennett apparently spoke by telephone to Rick Moseley, Salt River Construction, following which she sent an email to him to confirm her understanding that the docks that Salt River Construction apparently and eventually took to Chipps Island would be towed to Herman and Helen's Marina at Empire Tract Island by July 31, 2011, where they would be used to replace that marina's docks (Enforcement File No ER2011.028).
4. On November 9, 2011, I sent an email to Zack Cohn, Salt River Construction, informing him that Mr. Johnson, PSPYH, had informed me that the stored docks had been removed from his marina and, as such, requesting written confirmation of this fact. I requested the date of relocation, the destination and a photograph (Enforcement File No ER2011.028).
5. On November 9, 2011, Mr. Cohn informed me that the docks had been towed a couple of months prior to Spinner Island, which is located east of Chipps Island. In a follow-up email, he changed the location to Chipps Island. Mr. Cohn did not send me a map of the location to which the docks had been towed (Enforcement File No ER2011.028).
6. Following receipt of this email, I closed Enforcement Case No. ER2011.028, and reported this fact in the 2011 Year-End Enforcement Report, because I believed that the docks had be relocated outside of BCDC's McAteer-Petris Act (MPA) jurisdiction.
7. I don't know why I did not inquire of Mr. Cohn where on Chipps Island the docks had been located since it is located entirely within BCDC's Suisun Marsh Preservation Act jurisdiction. Instead, I drew an incorrect conclusion that they were going to be located east of the eastern boundary of the MPA jurisdiction.
8. I believe I never received a call from, or placed a call to, John Sweeney concerning this – or any other - matter. Enforcement File No ER2011.028 lacks any records of a conversation between Mr. Sweeney and me, which affirms my belief.

9. I never stated to Salt River Construction or anyone else that Point Buckler Island is not located in BCDCD's jurisdiction. I never heard of Point Buckler Island until Spring 2014, when my colleagues Cody Aichele and Joe LaClair reported their observations of an apparent violation involving heavy equipment, levee work and new boat docks at this location following their tour of the marsh in March 2014, with Steve Chappell, ED, SRCD.
10. Prior to September 19, 2016, I never saw the email dated August 31, 2011, from Mr. Cohn to Mr. Sweeney, submitted with Mr. Sweeney's Declaration. The title of this email is "Chips Island Sport and Social Club – Docks to be Moved." In the body of the email, Mr. Cohn states that the docks were going to be placed on the upland. In the body of the email, Mr. Cohn states that I "unofficially" informed him that placing the docks on the upland was "ok."
11. Therefore, it appears that Mr. Cohn believed the docks were going to be located on the upland of Chipps Island and not in the water at Point Buckler or Chipps Island. To my knowledge, there is no such entity as the "Chips Island Sport and Social Club." Instead, I understand that Mr. Sweeney owns and operates the Point Buckler Sport and Social Club on Point Buckler Island and that he also owns Chipps Island. Through inference, error, or both, Mr. Sweeney drew an incorrect conclusion that because BCDC staff "unofficially" stated that it was "ok" to place docks on the upland of Chipps Island, that Point Buckler Island was not located in BCDC's jurisdiction.
12. Four years later, in April, 2015, during a boat ride from the Martinez Marina, Contra Costa County, to Point Buckler Island, Solano County, with Mr. Sweeney, three other members of the BCDC staff, and me, we passed a series of abandoned docks in poor condition in the channel that separates Chipps and Spinner Islands. Mr. Sweeney informed us that these were the docks that Salt River Construction had towed from the PSPYH four years prior. Though I do not recall precisely what I said to Mr. Sweeney that day about this observation, I believe that I informed Mr. Sweeney that they were located in, and should be removed from, BCDC's jurisdiction. I believe Mr. Sweeney stated that he had done Salt River Construction a favor in allowing them to store the docks offshore from his property and that they had failed to ever cut up and dispose of the docks and that Mr. Sweeney didn't plan on assuming the expense of doing it himself. Mr. Sweeney had done the favor because, he stated, he had grown up with Rick Moseley and his brothers in Marin County. Mr. Sweeney did not tell me that I had informed him during a prior conversation that it was okay to place the docks at this location.
13. Following this boat trip, on April 13, 2015, I contacted Salt River Construction and reached Dave (Cohn), and directed them to remove the boat docks (i.e. marine debris) from SF Bay. Dave told me Zack (Williams) would call me back on the 17th. Having not received a call from Zack on April 17th, on April 22, 2015, I called back. No one answered the telephone, so I left a message asking for a call back from Zack or Rick (Moseley) to remove the docks from the PSPYH, now at Chipps Island, from the Bay. Enforcement File No ER2011.028 lacks any further record of communication between Salt River Construction and BCDC. I have no recollection that anyone from Salt River Construction called me back and, as of the date of this declaration, to my knowledge, the docks are still being stored in the Bay adjacent to Chipps Island.

14. As stated, I believe Mr. Sweeney is incorrect in stating that he and I spoke about the Salt River boat docks and BCDC's jurisdiction. Prior to learning from the ACOE about the placement of a shipping container in a levee breach at Chipps Island by Mr. Sweeney, I had never heard of him. Mr. Sweeney took a risk in conducting work on Chipps and Point Buckler Islands without first contacting and obtaining permits from the SRCD, the RWQCB, the ACOE and/or BCDC. Any one of these agencies would have referred him to the others.

15. BCDC records show that the agency has issued two cease and desist orders, entered into one settlement agreement and written six enforcement letters to property owners in the marsh. It is also possible that some of the marsh development permits were issued after-the-fact for work that had already occurred.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

September 23, 2016
Date



ADRIENNE KLEIN

