

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK**

NATIONAL AUDUBON SOCIETY,

*Plaintiff,*

v.

DAVID BERNHARDT, *et al.*,

*Defendants,*

BOROUGH OF AVALON, *et al.*,

*Defendant-Intervenors.*

Case No. 20-cv-5065 (LJL)

**DECLARATION OF COLETTE BUCHANAN**

I, Colette Buchanan, state and declare as follows:

1. I submit this declaration in support of Plaintiffs' complaint in the above-captioned litigation.
2. The facts set forth in this declaration are based on my personal knowledge. If called as a witness in these proceedings, I could and would testify competently to these facts.
3. I reside in the borough of Monmouth Beach, Monmouth County, New Jersey.
4. I graduated Villanova School of Law with a Juris Doctor degree in 1983. I was admitted to practice law in Pennsylvania and New Jersey in 1983. I worked as an Assistant Prosecutor for Hudson County, New Jersey from 1984 to 1989. I was an Assistant United States Attorney for the District of New Jersey from November, 1989 through November 2013, when I retired from the practice of law.

5. I have been a member of the National Audubon Society since October, 2001. I am the current President of Monmouth County Audubon Society (MCAS), a Chapter of National Audubon based in Red Bank, New Jersey. I have been a member of the Board of MCAS since 2004.

6. I enjoy recreational bird watching because I am fascinated by the beauty, diversity, behavior and remarkable lives of birds. I am a member of the National Audubon Society because the organization supports and defends birds and their habitats and advocates for their survival. Also, National Audubon is a great source of information about birds and their natural history, and provides education and tools for outreach to people about birds and birdwatching. Birdwatching provides me with relaxation, exercise, fresh air and connection with nature and with other people who share my passion for these fabulous feathered creatures.

7. When I was a child I enjoyed seeing birds in my backyard and the local park. I did not begin serious birdwatching until I was an adult. I began by watching birds in my backyard, starting with bird feeders and a birdbath to attract the birds. A visit to Hawk Mountain, Pennsylvania in Spring of 2000 provided me with eye level views of raptors and was the first “hook” for me. It was a photo safari to Tanzania in June, 2000, that convinced me that birdwatching could be a lifelong hobby. I loved watching wildlife and the many brightly colored birds of East Africa. After I returned from that trip I began to go on field trips with the local Audubon groups, learning about birdwatching, binoculars, field marks, life lists and the pleasure of sharing nature with others. I learned that there were many more birds in New Jersey than I had ever imagined. I have personally seen over 350 species of birds in New Jersey. In the last twenty years, my birding has taken me to many U.S. States, including Alaska, as well as Costa Rica, Brazil, Ecuador, Belize and Canada. Seeing a male Resplendent Quetzal in Costa Rica, with its

magnificent tail, took my breath away. My favorite local patch to birdwatch is Sandy Hook, New Jersey, part of the National Park Service Gateway National Recreation Area. The ocean, beaches, back bay and maritime forest at that spot provide good birdwatching all year round.

8. Among the places I have enjoyed bird watching is Cape May Peninsula, Stone Harbor Point and Nummy Island in Southern New Jersey.

9. Spring is a great time to visit Cape May County, including Nummy Island and Stone Harbor Point. This area is a major stopover and feeding spot for shorebirds, including Semipalmated Plovers, Semipalmated Sandpipers, and the Red Knot. Scientists have documented that the area is a key refueling area for shorebirds on their journey to their breeding territories in the Arctic. I enjoy Nummy Island for the variety of shorebirds, including the species mentioned above, as well as Whimbrel and Willets. The marsh at Nummy Island is also a great spot to see wading birds, such as Tricolored Heron and Little Blue Heron, which are not common in my home County. The marsh at Nummy Island provides great foraging habitat for these and other bird species.

10. I have visited Stone Harbor Point in Spring, which is when beachnesting birds such as the federally endangered Piping Plover, and New Jersey State endangered Least Tern are setting up nests. Stone Harbor Point has been a productive breeding location for both of these species, as well as American Oystercatchers.

11. If sand mining is allowed to take place in Hereford Inlet below Stone Harbor Point it would negatively impact the birds that rely on the area and the surrounding water for food and nesting habitat. The beach at Stone Harbor Point is graded and managed to provide suitable habitat for Piping Plover, an endangered species that is not reproducing at a sustainable level in New Jersey. Dredging or sand mining of the waters surrounding the Point may cause

erosion on the Point. Additionally, disturbance of the inlet floor will disturb the fish, mollusks and other food sources of the many bird species that rely on this area for food. Disturbance in the inlet will affect the many bird species that inhabit and or feed at Nummy Island, including the migratory shorebirds, the wading birds and resident breeders such as Clapper Rails and Willets. If these species suffer and lose their foraging and breeding grounds at these locations, it would greatly diminish my enjoyment of these sites.

12. I have a firm intent to return to Cape May County, in particular Nummy Island and Stone Harbor Point, in the near future. I visited these locations for birdwatching in May of 2018 and 2019. I did not visit in 2020 due to COVID19 restrictions and concerns. I intend to visit these locations again in Spring of 2021 and annually thereafter to look for and observe shorebirds, wading birds, gulls and terns.

13. I am aware that the United States Department of the Interior has issued a determination allowing sand from the Coastal Barrier Resources System to be used for renourishment outside of the System. I am further aware that this determination was requested by parties seeking to use sand from Hereford Inlet, New Jersey (the inlet adjacent to Stone Harbor Point) to renourish developed beaches on the Cape May Peninsula, including the beach at Stone Harbor. Finally, I am aware that Congress has funded that project through approximately 2050.

14. If the Department of the Interior's new rule stands, the CBRA System Unit at Cape May (particularly Hereford Inlet) is very likely to be dredged for sand and used to replenish developed beaches. As set forth above, that dredging would impair beachnesting and other birds and would therefore impair my recreational and aesthetic interests in viewing those birds.

15. These injuries would be redressed by a favorable decision from this Court, which would prevent the mining of the CBRA unit for non-CBRA beaches and therefore foreclose damage to Stone Harbor Point, Nummy Island, and the associated wildlife.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Signed this 5<sup>th</sup> day of November 2020 in Monmouth Beach, New Jersey.

Collette R. Buchanan