

United States Senator Dianne Feinstein

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Washington—Senator Dianne Feinstein (D-Calif.) sent the following letter to the California Fish and Game Commission regarding the potential operating permit renewal for the Drakes Bay Oyster Company:

May 22, 2012

Mr. Daniel W. Richards
President
California Fish and Game Commission
1416 Ninth Street, Room 1320
Sacramento, CA 95814

Dear President Richards:

I want to thank you for your kind invitation to speak at the California Fish and Game Commission meeting regarding the Drakes Bay Oyster Company. I regret that my Senate schedule prevents me from attending.

I understand that you invited my input on the state water bottom lease for Drakes Bay Oyster Company. This issue involves a matter of legal interpretation of the California Constitution in which I, as a federal elected official, have not been involved; therefore, I think it is more appropriate for others to provide comment and advice to the Commission.

You also asked about my history with the Drakes Bay Oyster Company issue. I am very familiar with Point Reyes National Seashore and the oyster farm itself. The farm has existed for over 70 years, employs 30 people, and is the last remaining oyster canning operation in California. The family that owns the farm has been in the business for four generations.

I became concerned about this issue when I found that the science regarding the impacts of the oyster farm had been manipulated, and that the oyster farm operator had been treated in a biased and unfair manner. The Park Service has repeatedly misrepresented the scientific record since 2006 to portray the farm as environmentally harmful, and it is my belief that the Park Service is doing everything it can to justify ending the oyster farm's operations.

To summarize my actions and concerns since I became involved:

April - May 2007 – The Marin County Board of Supervisors acted unanimously to request that I facilitate a meeting between the Park Service and the Lunnys to explore ways in which the oyster farm could continue to operate while protecting Drakes Bay's sensitive natural resources. Simultaneously, the Department of the Interior's Inspector General began investigating alleged scientific misconduct by the Park Service when the agency issued reports in 2006 and 2007 on the oyster farm's environmental impacts on Drakes Estero.

April 2008 – I helped broker a compromise that resulted in a new special use permit for the oyster farm so it could continue operations within Drakes Bay through the term of its current lease. I also asked that the National Academy of Sciences review the same Park Service environmental reports that were the subject of the Inspector General's investigation.

May 2009 – The National Academy of Sciences found that the Park Service “selectively presented, over-interpreted, or misrepresented the available scientific information on potential impacts of the oyster mariculture operation.” Despite the Park Service's multiple revisions of its report, the Academy concluded that “[the report] never achieved a rigorous and balanced synthesis of the mariculture impacts. Overall the report gave an interpretation of the science that exaggerated the negative and overlooked potentially beneficial effects of the oyster culture operation.”

The Department of the Interior Inspector General also found that the Park Service's Science Advisor leading the Drakes Bay study “misrepresented research” despite being “privity to information contrary” to what she presented, and “did nothing to correct the information before its release to the public.” Further, the Inspector General found that the Park Superintendent “intended to bring the potential negative effects of [the oyster operation] to the public's eye.”

October 2009 – I authored legislation to give the Interior Secretary the option to extend the oyster company's lease by 10 years. Interior Secretary Salazar then authorized the Park Service to prepare an Environmental Impact Statement (EIS) to evaluate the oyster company's operations. The final draft of the EIS is scheduled for release in July 2012.

March 2011 – Park Service Field Solicitor Gavin Frost reported that a Park Service scientist had suppressed 250,000 photographs studying the oyster farm's effects on harbor seals, and the scientist held fast to a “statistically and scientifically unproven belief” that the oyster farm operations were disturbing seals despite evidence to the contrary. Frost concluded that the Park Service's misconduct “arose from incomplete and biased evaluation and from blurring the line between exploration and advocacy through research.” In response, I wrote two letters to Secretary Salazar asking that any staff with a past history regarding the oyster farm be removed from the EIS process, that the Park Service take immediate corrective actions, and that discredited scientific reports be excluded from the EIS.

November 2011 – Given the repeated allegations of scientific misconduct, Congress included, at my request, report language in its Fiscal Year 2012 appropriations omnibus that directed the National Academy of Sciences to conduct another review of the Park Service's work on the draft EIS which was released in September 2011. The Academy and the Park Service are in discussions about the study.

March 2012 – The Park Service's draft EIS included noise measurements that appeared to show that oyster boats disturb the quiet of Drakes Estero. However, it came to my attention that the Park Service's measurements did not come from the oyster boats or the surrounding areas, but from jet skis in New Jersey that were part of an unrelated 17 year-old study, and which were attributed to the oyster farm's operations without explanation. In response to this discovery, the Department of the Interior's Inspector General has opened a new investigation into the Park Service's conduct.

The Park Service's repeated misrepresentations of the scientific record have damaged its trust with the local community, and stained its reputation for even-handed treatment of competing uses of public resources. I firmly believe the only way to begin to repair that trust, and to send an unmistakable signal that the Administration is committed to scientific integrity, is to renew Drakes Bay Oyster Company's permit.

Thank you again for your invitation to share my views on these issues. If you have any further questions, please contact James Peterson in my Washington, D.C. office at (202) 224-3841.

Sincerely,

Dianne Feinstein
United States Senator

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