

1 MELINDA L. HAAG (CSBN 132612)
United States Attorney
2 ALEX TSE (CSBN 152348)
Acting Chief, Civil Division
3 CHARLES O’CONNOR (CSBN 56320)
Assistant U.S. Attorney
4 Northern District of California
5 450 Golden Gate Avenue, 9th Floor
6 San Francisco, CA 94102
Telephone: (415) 436-7180
7 Email: Charles.O’Connor@usdoj.gov

8 IGNACIA S. MORENO
Assistant Attorney General
9 STEPHEN M. MACFARLANE (N.Y. Bar No. 2456440)
Senior Attorney
10 JOSEPH T. MATHEWS (Colo. Bar No. 42865)
E. BARRETT ATWOOD (D.C. Bar. No.478539)
11 CHARLES R. SHOCKEY (D.C. Bar No. 914879)
Trial Attorneys, U.S. Department of Justice
12 Environment and Natural Resources Division
13 Natural Resources Section
14 501 “I” Street, Suite 9-700
15 Sacramento, CA 95814-2322
Telephone: (916) 930-2204
16 Facsimile: (916) 930-2210
17 Email: Stephen.Macfarlane@usdoj.gov
Attorneys for Defendants

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **OAKLAND DIVISION**

20 DRAKES BAY OYSTER COMPANY, et al.)
21)
22 Plaintiffs,)
23 v.)
24 KENNETH L. SALAZAR, in his official)
25 capacity as Secretary, U.S. Department of)
26 the Interior, et al.,)
27 Defendants.)

Case No. 4:12-cv-06134-YGR

STIPULATION RE:
BRIEFING SCHEDULE AND ORDER

1 Plaintiffs Drakes Bay Oyster Company and Kevin Lunny (“Plaintiffs”) and Defendants
2 Kenneth L. Salazar, in his official capacity as Secretary of the Interior, the U.S. Department of
3 the Interior, the National Park Service, Jonathan Jarvis, in his official capacity as Director of the
4 National Park Service, and Does 1-100 (“Defendants”), having conferred through undersigned
5 counsel following the December 13, 2012 Status Conference before the Hon. Yvonne Gonzalez
6 Rogers, now hereby stipulate as follows:
7

8 (1) Plaintiffs and Defendants hereby stipulate and agree that Plaintiffs may under the
9 terms of the November 29, 2012 limited authorization, and at Plaintiffs’ sole business risk,
10 conduct activities involving taking oyster spat existing in the water at Drakes Estero as of
11 November 30, 2012 out of the water and stringing them, and planting them on oyster racks in
12 Drakes Estero;
13

14 (2) Plaintiffs hereby withdraw their *Ex Parte* Application for Temporary Restraining
15 Order, filed December 12, 2012 (Doc. # 20) in the above-captioned action;
16

17 (3) Plaintiffs intend to file a Motion for a Preliminary Injunction in the above-
18 captioned action on or before December 21, 2012. In the event such a motion is filed,
19 Defendants shall file their Opposition on or before January 9, 2013; Plaintiffs shall file their
20 Reply on or before January 16, 2013.
21

22 (4) The Court has advised the parties that it will hear the Motion for Preliminary
23 Injunction on January 25, 2013, at 2:00 p.m. pacific, in Courtroom 5;

24 (5) In the event the Court denies the Motion for Preliminary Injunction, Plaintiffs and
25 Defendants stipulate: (a) Defendants will waive the responsibility of Plaintiffs to remove the
26 mobile residential units located on site and currently inhabited by Drakes Bay Oyster Company
27
28

1 Employees; and (b) Defendants agree to allow Plaintiffs until March 15, 2013 to complete the
2 removal of all other personal property within the onshore area.

3 Respectfully submitted this 14th day of December 2012, by:

4 CAUSE OF ACTION

5 By: /s/ Amber D. Abbasi (per authorization)

6 AMBER D. ABBASI (CSBN 240956)

7 1919 Pennsylvania Ave. NW, Suite 650

8 Washington, D.C. 20006

9 Tel: (202) 499-4232

10 Fax: (202) 300-5842

11 Email: amber.abbasi@causeofaction.org

12 STOEL RIVES LLP

13 By: /s/ Ryan R. Waterman (per authorization)

14 RYAN R. WATERMAN (CSBN 229485)

15 12255 El Camino Real, Suite 100

16 San Diego, CA 92130

17 Tel: (858) 794-4100

18 Fax: (858) 794-4101

19 Email: rrwaterman@stoel.com

20 ATTORNEYS FOR PLAINTIFFS DRAKES BAY OYSTER
21 COMPANY, *et al.*

22 MELINDA L. HAAG (CSBN 132612)

23 United States Attorney

24 ALEX TSE (CSBN 152348)

25 Acting Chief, Civil Division

26 CHARLES O'CONNOR (CSBN 56320)

27 Assistant U.S. Attorney

28 Northern District of California

450 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

Telephone: (415) 436-7180

Email: Charles.O'Connor@usdoj.gov

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IGNACIA S. MORENO
Assistant Attorney General

/s/ Stephen M. Macfarlane
STEPHEN M. MACFARLANE (N.Y. Bar No. 2456440)
Senior Attorney
JOSEPH T. MATHEWS (Colo. Bar No. 42865)
E. BARRETT ATWOOD (D.C. Bar. No. 478539)
CHARLES R. SHOCKEY (D.C. Bar No. 914879)
Trial Attorneys, U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
501 "I" Street, Suite 9-700
Sacramento, CA 95814-2322
Tel: 916-930-2203
Fax: 916-930-2210
Email: Stephen.Macfarlane@usdoj.gov

ATTORNEYS FOR DEFENDANTS KENNETH L. SALAZAR,
et al.

ORDER

Pursuant to the above Stipulation, **IT IS SO ORDERED.**

This Order terminates Dkt. Nos. 20 & 29.

DATED: December 17, 2012



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE