

DECLARATION OF AMBER D. ABBASI

I, Amber D. Abbasi, hereby state and declare as follows:

1. I am an attorney duly admitted to practice law before this Court and in the State of California. I am counsel of record for the plaintiffs, Drakes Bay Oyster Company and Kevin Lunny (hereinafter “DBOC”) in this case. I have personal and first-hand knowledge of the facts set forth in this Declaration, unless otherwise stated, and, if called as a witness, I could and would testify competently to those facts.

2. Attached as Exhibit 1 is a true and correct copy of the Memorandum of Decision from Secretary Salazar to the Director of the NPS, denying DBOC a SUP.

3. On December 17, 2012, pursuant to stipulation, the District Court set the scheduling for the Plaintiffs’ Motion for Preliminary Injunction that was to be filed on December 21, 2012, scheduling the Opposition to be filed by January 9, 2013, the Reply to be filed by January 16, 2013, and the hearing to be set for January 25, 2013. A true and correct copy of the Order Re: Briefing Schedule is attached as Exhibit 2.

4. Counsel for DBOC filed a duly noticed Motion for Preliminary Injunction and Memorandum of Points and Authorities in support thereof, on December 21, 2013. A true and correct copy is attached as Exhibit 3.

5. Defendants filed an Opposition to the Motion for Preliminary Injunction on January 9, 2013. On January 22, 2013, Defendants filed an Errata and a corrected Opposition to the Motion for Preliminary Injunction. A true and correct copy of Defendants' corrected Opposition to the Motion for Preliminary Injunction is attached as Exhibit 4.

6. Proposed Intervenors filed a Proposed Opposition to the Motion for Injunction Pending Appeal on January 9, 2013. A true and correct copy is attached as Exhibit 5.

7. Counsel for DBOC filed a Reply In Support of the Motion For Preliminary Injunction on January 15, 2013. A true and correct copy is attached as Exhibit 6.

8. Counsel for DBOC filed a Proposed Response to Proposed Intervenors' Opposition to Plaintiffs Motion For Preliminary Injunction on January 16, 2013. A true and correct copy is attached as Exhibit 7.

9. On January 25, 2013, the District Court held a hearing on Plaintiffs' Motion For Preliminary Injunction. A true and correct copy of the Transcript is attached as Exhibit 8.

10. On February 4, 2013, the District Court issued an Order Denying Plaintiffs' Motion For Preliminary Injunction. A true and correct copy is attached as Exhibit 9.

11. Counsel for DBOC filed a Preliminary Injunction Appeal notice on February 6, 2013.

12. Peter Prows and I, co-counsel for DBOC, spoke with Stephen Macfarlane, counsel for Defendants, by telephone on February 5, 2013. Mr. Prows told Mr. Macfarlane of Plaintiffs' intent to file an appeal of this Court's denial of Plaintiffs' motion for a preliminary injunction. He asked Mr. Macfarlane whether Defendants would stipulate to an injunction pending appeal. Mr. Macfarlane said Defendants would not so stipulate. Mr. Prows then asked whether Defendants would object to Plaintiffs filing a motion for an injunction pending appeal in the Ninth Circuit without first filing that motion in the District Court. Mr. Macfarlane noted that Rule 8 of the Federal Rules of Appellate Procedure ordinarily requires a party to move for an injunction pending appeal in the District Court first. I explained that Plaintiffs would need an expedited ruling from the District Court on such a motion within a matter of days. Mr. Macfarlane promised to get back to us.

13. The next day, on February 6, 2013, Mr. Prows informed me that Mr. Macfarlane had called him back and said that Defendants would not object to Plaintiffs moving early in the week of February 11 in the Ninth Circuit for an injunction pending appeal, so long as they first filed their motion for an injunction pending appeal in the District Court on the same grounds as Plaintiffs' original motion for a preliminary injunction.

14. On February 7, 2013, counsel for DBOC filed a Motion To Expedite Ruling and Notice of Motion and Motion for Injunction Pending Appeal. The Motion requested that if the District Court were inclined to deny the Motion it do so by the close of business on February 11, 2013, so that Plaintiffs DBOC would have sufficient time to bring an emergency motion for a preliminary injunction before the Ninth Circuit. A true and correct copy of these Motions is attached as Exhibit 10.

15. On February 8, 2013, Defendants filed an Opposition To Plaintiffs' Motion For Injunction Pending Appeal, which included a statement that it did not oppose Plaintiffs' request for an expedited ruling. A true and correct copy is attached as Exhibit 11.

16. On February 11, 2013, the District Court issued an Order Denying Plaintiffs' Motion For Injunction Pending Appeal. A true and correct copy is attached as Exhibit 12.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in Washington, District of Columbia, on February 12, 2013.

/s/ Amber D. Abbasi

Amber D. Abbasi

Counsel for the Plaintiff