

No. 13-15227

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DRAKES BAY OYSTER COMPANY and KEVIN LUNNY,

Plaintiff-Appellants,

v.

KENNETH L. SALAZAR, in his official capacity as Secretary,
U.S. Department of the Interior; U.S. DEPARTMENT OF THE INTERIOR;
U.S. NATIONAL PARK SERVICE; and JONATHAN JARVIS, in his official
capacity as Director, U.S. National Park Service,

Defendant-Appellees.

On Appeal from the United States District Court
for the Northern District of California
(Hon. Yvonne Gonzales Rogers, Presiding)
District Court Case No. 12-cv-06134-YGR

**REBUTTAL DECLARATION OF AMBER D. ABBASI IN SUPPORT OF
PLAINTIFF-APPELLANTS' EMERGENCY MOTION FOR INJUNCTION
PENDING APPEAL**

Amber D. Abbasi
CAUSE OF ACTION
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I, Amber D. Abbasi, hereby 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 for Plaintiff-Appellants Kevin Lunny and Drakes Bay Oyster Company (hereinafter “DBOC”). The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. On February 7, 2013, the U.S. Department of Interior’s (DOI) Office of Inspector General (OIG) publicly released an Investigative Report of Drakes Bay Oyster Company Environmental Impact Statement. A true and correct copy of an excerpt from that report is attached hereto as Exhibit 1.

3. A true and correct copy of a July 11, 2012, letter from California Fish and Game Commission Executive Director Sonke Mastrup to Secretary Salazar is attached hereto as Exhibit 2. This letter was included in the district court’s record in this action at Dkt. 33 at 41-42 (Ex. 9).

4. A true and correct copy of the October 10, 2012, letter from California Department of Fish and Game Director Charlton H. Bonham is attached hereto as Exhibit 3. This letter was included in the district court’s record in this action at Dkt. 80-1 at 91 (Ex. 5).

5. On January 14, 2013, Dr. Corey Goodman executed a Rebuttal Declaration in Support of DBOC’s Motion for Preliminary Injunction. On January 16, 2013, counsel for DBOC filed Dr. Goodman’s Rebuttal Declaration in the U.S. District

Court for the Northern District of California (Dkt. 79-1). A true and correct copy of Dr. Goodman's Rebuttal Declaration is attached hereto as Exhibit 4.

6. On January 14, 2013, Dr. Richard Steffel executed a Declaration in Support of Reply in Support of DBOC's Motion for Preliminary Injunction. On January 16, 2013, counsel for DBOC filed Dr. Steffel's Declaration in Support of Reply in the U.S. District Court for the Northern District of California (Dkt. 81-3). A true and correct copy of Dr. Steffel's Declaration in Support of Reply is attached hereto as Exhibit 5.

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

Executed this 21st day of February, 2013, in Washington, D.C.

/s/ Amber D. Abbasi

Amber D. Abbasi

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing and accompanying exhibits with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 21, 2013.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: February 21, 2013

Respectfully submitted,
CAUSE OF ACTION

By: */s/ Amber D. Abbasi* _____
AMBER D. ABBASI
Attorney for Plaintiff-Appellants