

EXHIBIT 3

**PLAINTIFF-APPELLANTS' REPLY
TO DEPARTMENT OF THE INTERIOR'S OPPOSITION TO EMERGENCY
MOTION FOR INJUNCTION PENDING APPEAL**

DISTRICT COURT DOCKET # 80-1

DEPARTMENT OF FISH AND GAME

CHARLTON H. BONHAM, Director

1416 9th Street
Sacramento, CA 95814
<http://www.dfg.ca.gov>



October 10, 2012

Superintendent Cicely Muldoon
National Park Service
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Dear Ms. Muldoon:

I am writing to encourage continued cooperation between the National Park Service, the California Department of Fish and Game ("Department"), and Drakes Bay Oyster Company, as renewal of the Special Use Permit for the Drakes Bay Oyster Company is considered.

The state and federal government have worked together for 47 years—since the State originally conveyed the bottom lands in Drakes Estero to the United States in 1965—to allow continued aquaculture operations in Drakes Estero. Correspondence between our agencies shortly after the conveyance strongly suggests that our agencies then believed that the State's reservation of fishing rights included the right to lease the bottom lands at Drakes Estero indefinitely for shellfish cultivation.

For almost five decades, the State has supported aquaculture in Drakes Estero. It has done so by regulating the Drakes Bay Oyster Company on an ongoing basis, by renewing the water bottom leases in 1979 and 2004, and by authorizing aquaculture in 2010 when establishing the Drakes Estero State Marine Conservation Area. Regulations implementing the California Marine Life Protection Act prohibit the cultivation of oysters in Drakes Estero without a valid state water bottom lease. The current state issued water bottom lease with Drakes Bay Oyster Company extends to 2029.

It is also important to recognize that California now is second only to Washington in shellfish production on the west coast and that Drakes Bay Oyster Company represents 55% of the water bottoms leased and 40% of the oysters cultivated in the state.

The continued cooperation between Drakes Bay Oyster Company, the National Park Service and the California Department of Fish and Game will benefit the environment, the community, and the local economy, consistent with our agencies' unique history of managing this property. Please contact me at 916.653.7667 if you have any questions or would like to discuss this matter.

Sincerely,

Charlton H. Bonham
Director

cc: Senator Dianne Feinstein