

Drakes Bay Oyster Company

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July 22, 2010

Cicely Muldoon
Superintendent
Point Reyes National Seashore
One Bear Valley Road
Point Reyes Station, CA 94937

Dear Cicely,

We were surprised to receive a copy of a letter from your office, dated June 28, 2010, to John McCamman, Director, California Department of Fish and Game (CDFG), regarding our mariculture leases with the State of California. We wish we could have responded sooner, but we did not receive a copy of the letter until July 15, 2010, two weeks after-the-fact.

1. DBOC submitted its request to the California Department of Fish & Game first, per the terms of the Special Use Permit approved by the National Park Service in 2008

At the outset, we want to respond to the concern voiced in your letter that DBOC should have submitted its requests to modify the boundaries of its lease and to alter mariculture use in Lease No. M-438-01 to include Olympia oysters and purple-hinged rock scallops to the National Park Service (NPS) first before contacting CDFG. The process outlined in your letter is contrary to the process outlined in the Special Use Permit (SUP) that NPS issued in 2008. Section 4(b)(vi) of the SUP states,

Permittee will not introduce species of shellfish beyond those described in the existing leases from the CDFG. Permittee may seek to conform and/or modify these leases with the CDFG. Any modifications approved by CDFG will be considered by Permitter on a case-by-case basis, and Permittee may not implement any such modifications without the prior written approval of the Permitter.

This provision clearly spells out a procedure, followed by DBOC in this instance, for DBOC to first seek to modify leases with CDFG and then once any modification is approved by CDFG, to seek approval by NPS. This process makes good sense because CDFG has special expertise with

mariculture activities, an expertise NPS lacks. The correct process is outlined in the SUP, and we followed it.

Given the above, the suggestion in your letter that NPS should “make a determination” about our proposed modifications to the lease before any consideration by CDFG is inappropriate. The process your letter suggests violates the express terms of the SUP that your office approved. Not only that, but the added delay will impose significant costs on DBOC.

2. DBOC’s request does not involve an expansion of use

Our request to address the lease boundary corrects an error that was made many decades ago when a prior survey inadvertently excluded portions of Bed 6 that were already under cultivation from the lease area. The oyster racks in this area have been in production since at least the 1950s. We are proposing to correct the lease boundary to include this area and to remove an equal amount of area from the lease in the vicinity of where the harbor seals haul out. The net effect is to increase the buffer zone for harbor seals from 300 feet as recommended by the Marine Mammal Act to 500 to 1000 feet. The boundary change would not result in any expansion of use.

We have also requested authorization from CDFG to cultivate Olympia oysters and Purple Hinged Rock Scallops within Lease No. M-438-01. Both species are indigenous to Drakes Estero and can be found today under natural conditions. In fact, Purple Hinged Rock Scallops are already authorized for cultivation within Lease No. M-438-02. No new culture methods will be required to cultivate Olympia oysters or Rock Scallops. Nor will there be any expansion in production, as the Olympia oysters and Rock Scallops will displace Pacific oysters currently under cultivation.

We are particularly excited by the prospect of cultivating Olympia oysters. Olympia oysters are the only native oysters on the Pacific coast. If given approval, DBOC will operate the only hatchery of Olympia oysters in California.

We note that your letter seeks to improve communication and coordination with CDFG about the leases in Drake’s Estero. We trust you wish to improve communication and coordination with DBOC as well. During your recent visit to the Estero on July 14, 2010, we felt as if progress had been made in that regard. Indeed, during your visit we discussed the requests we had submitted to CDFG. You can therefore understand why we found your letter disappointing, given that it mischaracterizes the facts and disregards the process the SUP so very clearly spells out. We respectfully request that you withdraw your letter to John McCamman.

Sincerely,

Kevin Lunny

Nancy Lunny