

# *Drakes Bay Oyster Company*

17171 Sir Francis Drake Boulevard

Inverness, CA 94937

(415) 669-1149

[kevin@drakesbayoyster.com](mailto:kevin@drakesbayoyster.com)

[nancy@drakesbayoyster.com](mailto:nancy@drakesbayoyster.com)

May 11, 2009

Jon Jarvis  
Regional Director  
National Park Service  
1111 Jackson Street, Suite 700  
Oakland, CA 94607

Dear Mr. Jarvis.

On May 5, 2009, in response to National Academy of Sciences Report on NPS science at Drakes Estero, the Pacific West Region of the National Park Service issued a press release entitled, "*Park Service to Use National Academy of Sciences Report to Improve Management of Drakes Estero.*" You were also interviewed by the media on May 5 and over the subsequent few days and made several additional statements.

We acknowledge the Park Service apology and express our appreciation for it. That said, we are confused by certain statements that have been made and, by this letter, ask for clarifications.

- (1) **NPS Rejects Unspecified NAS Conclusions.** According to an article in the Marin Independent Journal, "*Report: Point Reyes Oyster Farm Poses No Danger to the Estero,*" you said: "*we (NPS) agree with some conclusions, disagree with some and say we need more research too.*"
  - (A) Please itemize the NAS conclusions in which NPS concurs.
  - (B) Please itemize the NAS conclusions in which NPS "disagrees."
  - (C) Please provide a detailed explanation for those instances in which NPS disagrees and provide supporting data and documentation.
- (2) **NPS Contradicts NAS, Renews Claims that Oysters in Drakes Estero Harming Environment.** According to an AP story published in the San Jose Mercury News,

entitled “Report Criticizes Feds Over Marin Oyster Farm:”

*National Park Service officials said the non-native Pacific oysters raised by the farm are damaging the ecosystem.*

*But the National Academy of Sciences says in its report that it found no major negative environmental impact. The panel also suggests that park officials misrepresented some of the facts to support their position. Park Service Director Jon Jarvis says he disagrees with some of those findings.*

- (A) Please explain and detail how and why the National Academy is wrong.
  - (B) Notwithstanding NAS conclusions of no environmental harm, NPS still claims that non-native Pacific oysters are harming the environment at Drakes Estero. Please detail the harm. Provide the data that supports and substantiates that harm.
- (3) **NPS Plan to Correct the Record with Marin County Board of Supervisors, Federal and State Agencies, the Citizens of Marin and the Public at Large.** According to an article published in the Point Reyes Light, “Park Service Abuses Data, Apologizes:”

*In a press release, Jarvis wrote that the Academy affirmed [NPS’s Science Advisor Sarah] Allen’s conclusions [in the NPS Report, “Drakes Estero, A Sheltered Wilderness Estuary], but over the phone contradicted himself. “It’s the conclusions that are debated,” he said, “but not the raw data...”*

*Still its determination that the park, “in some instances selectively presented, over interpreted, or misrepresented the available scientific information” approximates the definition of scientific misconduct as written in the federal register.*

*“The allegations of scientific misconduct is based on there being intentional falsification of data,” he (Jarvis) said. “Neither the IG nor the Academy found that. What they did find in both cases was overreaching.”*

*Jarvis declined to describe his plan for correcting the public record.*

- (A) NPS testified, published, hand-delivered and otherwise disseminated information, reports, documents, data and reports that, according to the NAS “in some instances selectively presented, over-interpreted, or misrepresented the available scientific information on DBOC operations by exaggerating the negative and

*overlooking potentially beneficial effects...*” These reports, information, documents and data were provided to the Marin County Board of Supervisors, Congresswoman Woolsey, Senators Feinstein and Boxer, other locally elected officials, California Coastal Commission, Marin Mammal Commission, California State Resources Agency, MLPA Task Force, California Department of Fish and Game, NOAA among others. Please detail your plan and timetable for correcting the public record with all parties and interests.

- (B) According to the Inspector General’s Report, NPS also provided the same flawed reports, information, documents and data to certain environmental groups including the Sierra Club, National Parks and Conservation Association (NPCA) and the Environmental Action Committee (EAC). These groups, today, are actively publishing, disseminating and/or are circulating this flawed and tainted scientific information. Please detail your plan and timetable for correcting the public record with these and other environmental groups.
  - (C) Please provide copies of the letters and documents in which the corrections are made.
- (4) According to the NPS Pacific West Region News Release on May 5, 2009:
- “Certainly, we apologize for the errors in our original document [Drakes Estero, A Sheltered Wilderness Estuary] and already have taken steps to correct them,” Park Service Regional Director Jon Jarvis said. “We appreciate the thoroughness of the academy’s report and especially that academy concurred with many of our conclusions in the final, corrected version of the report”*
- (A) Identify each of the specific “*errors*” in the original document being referenced.
  - (B) Explain the “*steps being taken to correct them.*”
  - (C) You state, “*we appreciate...that the academy concurred with many of our conclusions in the final, corrected version of the report.*” To which “*conclusions*” are you referring? Itemize and detail.
  - (D) Your statement references the “*final, corrected version of the report.*” We are unfamiliar with such a document. Immediately after the NAS Report was published, we asked the NAS panel for this document and they were unable to provide it. Will you please provide us with a copy of the final, corrected version of the Drakes Estero report.

This has been an agonizing ordeal for our family. NPS, since we purchased the oyster farm in January 2005, has been making a sustained series of accusations, claims, and charges – ranging from environmental criminality to environmental harm. Now, it appears as if a “new generation”

of charges is emerging.

This is painfully unacceptable.

We were heartened by the NPS apology. But a few words in a press release, unfortunately, will not restore our good name -- and neither will it absolve NPS of its responsibility to take responsibility for the damage it has done to us and to itself. NPS must clean up the situation it has created for our family and our community, starting with correcting the record of false NPS claims.

We ask that you, in good faith, please clarify this immediately and provide detailed and complete answers to the questions set forth in this letter.

Sincerely,

Kevin Lunny

Nancy Lunny