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RESOURCE RENEWAL INSTITUTE,
11 CENTER FOR BIOLOGICAL DIVERSITY, and WESTERN
WATERSHEDS PROJECT

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 RESOURCE RENEWAL INSTITUTE,
15 CENTER FOR BIOLOGICAL
DIVERSITY, and WESTERN
16 WATERSHEDS PROJECT,

17 Plaintiffs,

18 v.

19 NATIONAL PARK SERVICE, a federal
agency, and CICELY MULDOON, in her
20 official capacity as Superintendent of Point
Reyes National Seashore,

21 Defendants.

Case No.

COMPLAINT

(Administrative Procedure Act Case)

Date Filed: February 10, 2016

Trial Date:

INTRODUCTION

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2 1. The Point Reyes National Seashore in Marin County is a national treasure which
3 provides exceptional environmental values and recreational opportunities for northern California
4 residents and many other visitors from around the nation and the globe. The National Seashore’s
5 approximately 71,000 acres include stunning and diverse ecosystems such as coastal cliffs and
6 headlands, sandy and rocky beaches, rolling grasslands, forested ridges, estuarial bays, and
7 meandering streams. Over 33,000 acres of the National Seashore is designated as wilderness or
8 potential wilderness, including the only marine wilderness on the West Coast south of Alaska.
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10 2. Under its governing legislation – including the Point Reyes Enabling Legislation
11 (“the Point Reyes Act”), the Park Service’s Organic Act, and the National Park Service and
12 Related Programs Act (“NPS Act”) – the National Park Service is obligated to manage the Point
13 Reyes National Seashore through a current and valid General Management Plan, consistent with
14 the overriding legal mandates that the National Seashore’s wildlife and natural resources receive
15 “maximum protection” and be left “unimpaired for the enjoyment of future generations.” 16
16 U.S.C. § 459c-6(a); 54 U.S.C. § 100101(a) (previous version at 16 U.S.C. § 1).
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18 3. In violation of these legal mandates, the National Park Service continues to rely
19 on a 1980 General Management Plan which the agency has acknowledged should be updated,
20 and which fails to provide measures for the preservation of the National Seashore’s natural and
21 recreational resources from current threats such as severe drought and climate change. Such a
22 badly outdated General Management Plan does not serve its purpose as a strategic planning
23 document that outlines future management and sets the basic philosophy and broad guidance for
24 all activities at the National Seashore for a limited time period. Without an updated General
25 Management Plan that reflects current conditions and needs, the agency cannot ensure that
26 individual management decisions do not collectively impair the National Seashore’s resources.
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1 4. Although ranching within the National Seashore is not mandated by any law, and
2 even though the federal government has paid millions of dollars to acquire ownership of private
3 lands within its boundaries, the Park Service still authorizes private livestock ranching on
4 roughly 18,000 acres of the Point Reyes National Seashore (comprising nearly half of its non-
5 wilderness areas) without ever having prepared a comprehensive environmental analysis of the
6 adverse impacts posed by current ranching practices. Nor has it evaluated whether current
7 ranching collectively impairs the National Seashore, in violation of the National Environmental
8 Policy Act (“NEPA”) and the underlying substantive requirements for management.
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10 5. The Park Service’s own documents and other information indicate that ranching
11 operations are impacting adversely and impairing the resources of the Point Reyes National
12 Seashore, including water quality, wildlife, and recreational uses. Whether the ranching
13 operations are consistent with the substantive requirements for management of the National
14 Seashore is thus very much in doubt. Yet the agency has embarked on a process to develop new
15 long-term leases for ranching, before identifying the cumulative impacts of current ranching
16 operations and considering whether such impacts are compatible with the public’s future
17 management vision for the National Seashore as a whole.
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19 6. Accordingly, Plaintiffs bring this action to require the Defendants to prepare a
20 new or revised General Management Plan for the Point Reyes National Seashore, and to fully
21 analyze the impacts of livestock ranching on the natural and recreational resources of the
22 Seashore, as required by NEPA and substantive laws governing the National Seashore. The Park
23 Service must fulfill these legal requirements by developing a comprehensive plan for the future
24 of the National Seashore and all public uses before continuing its current planning process that
25 focuses on the long-term needs of only one private use—ranching.
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JURISDICTION AND VENUE

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7. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Park Service’s Organic Act, 16 U.S.C. § 1 *et seq.* (2013) (current version at 54 U.S.C. § 100101 *et seq.*);¹ the NPS Act, 54 U.S.C. § 100101 *et seq.*; the Point Reyes National Seashore enabling legislation, 16 U.S.C. § 459c *et seq.*; the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*; the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.*

8. An actual, justiciable controversy now exists between Plaintiffs and Defendants. The requested relief is therefore proper under 28 U.S.C. §§ 2201-2202 and 5 U.S.C. §§ 701-706.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district, and the affected public lands and resources are located in this judicial district.

10. Under Civil Local Rule 3-2(c) and (d), this civil action should be assigned to the San Francisco Division or the Oakland Division of this Court, because a substantial part of the events or omissions which give rise to the claims herein occurred in Marin County. Further, the property that is the subject of this action is situated in Marin County and at least one Plaintiff resides in Marin County.

11. The federal government waived sovereign immunity pursuant to 5 U.S.C. § 702.

¹ On December 19, 2014, Congress passed legislation entitled “National Park Service and Related Programs” (hereinafter the “NPS Act”). Pub. L. No. 113-287, 128 Stat. 3094 (2014) (codified at 54 U.S.C. § 100101 *et seq.*). The NPS Act repealed and codified legislation applicable to the National Park Service to “conform to the understood policy, intent, and purpose of Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections.” Pub. L. No. 113-287, § 2, 128 Stat. 3094.

PARTIES

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2 12. Plaintiff RESOURCE RENEWAL INSTITUTE (“RRI”) is a non-profit
3 corporation with its principal place of business in Mill Valley, California, in the County of
4 Marin. RRI was founded in 1985 by Huey D. Johnson, a lifelong environmentalist and former
5 California Secretary of Resources with a longstanding connection to Point Reyes and its natural
6 resources. RRI facilitates the creation, development, and implementation of practical strategies
7 to solve environmental problems in a comprehensive framework. RRI’s work includes a
8 program called Defense of Place, which helps communities protect parks, wildlife refuges, and
9 open space in perpetuity. Through this program, RRI protects parklands, nature preserves, and
10 conservation easements whose legal charters are threatened by sale, development, and predatory
11 changes in use. RRI also works to protect lands set aside for preservation or public use so that
12 they are never sacrificed for economic or political motives.
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14 13. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (“the Center”) is a non-
15 profit organization with offices in California and elsewhere across the country and more than
16 3,000 members and supporters in Marin County. The Center’s mission is to ensure the
17 preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands
18 and waters, and public health through science, policy, and environmental law. The Center and
19 its members are concerned with the conservation of imperiled species that use Point Reyes, and
20 the effective implementation of laws to protect species and their habitat.
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22 14. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a non-profit
23 membership organization with offices in California and other western states, and is dedicated to
24 protecting and restoring watersheds and wildlife in the American West through education, public
25 policy initiatives, and legal advocacy. WWP has over 1,500 members, including members
26 located in the San Francisco Bay Area. WWP, as an organization and on behalf of its members,
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1 is concerned with and seeks to protect and improve the public lands, wildlife, other natural
2 resources, and ecological values of western watersheds, particularly by addressing impacts
3 caused by domestic livestock grazing.

4 15. Plaintiffs RRI, the Center, and WWP have members, staff, and/or supporters who
5 live or work near, or who use and enjoy the public lands and waters of the Point Reyes National
6 Seashore for recreation, conservation, aesthetic, and/or other uses. These uses are harmed by the
7 Defendants' violations of laws alleged herein, including the Park Service's failure to adopt a
8 current and valid General Management Plan that affords "maximum protection" for the National
9 Seashore's wildlife and natural resources and leaves them "unimpaired for the enjoyment of
10 future generations." These uses also are harmed by Defendants' authorizations of ranching
11 within the National Seashore which typically include cattle grazing and residential activities
12 (collectively "livestock ranching"). For example, livestock ranching routinely prevents members
13 of the public, including Plaintiffs' staff, members, and/or supporters, from accessing and
14 enjoying portions of the National Seashore, and impacts adversely the quality of recreation
15 opportunities where they do occur. The agency's failure to adequately manage, analyze, and
16 plan for livestock ranching exacerbates these injuries by increasing their negative impacts on the
17 natural resources and recreational opportunities. The agency has also injured Plaintiffs and their
18 members and/or supporters by depriving them of analyses, procedures, and public comment
19 opportunities required by the NPS Act, NEPA, and the agency's own regulations.
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22 16. Defendant NATIONAL PARK SERVICE is an agency or instrumentality of the
23 United States, within the U.S. Department of the Interior. The Park Service is vested with the
24 authority and duty to manage and protect the public lands and resources of the Point Reyes
25 National Seashore, as alleged herein.
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1 17. Defendant CICELY MULDOON is the Superintendent of the Point Reyes
2 National Seashore, and is responsible for day-to-day implementation of planning and activities
3 and ensuring that the Park Service's management of activities within the National Seashore
4 complies with applicable laws. She is sued solely in her official capacity, for her actions as an
5 employee within the National Park Service, a division of the U.S. Department of the Interior.

6 18. Defendants' violations of law, as alleged herein, injure the aesthetic, conservation,
7 scientific, recreational, educational, wildlife preservation, procedural, and/or other interests of
8 Plaintiffs. These are actual, concrete injuries caused by Defendants' violations of law, and the
9 judicial relief sought would remedy, in whole or in part, these injuries.

10 **FACTUAL AND LEGAL BACKGROUND**

11 **Overview of the Point Reyes National Seashore**

12 19. Point Reyes is located on a coastal peninsula in western Marin County, California,
13 that encompasses approximately 71,000 acres and 80 miles of coastline. The Point Reyes
14 National Seashore contains stunning and diverse landscapes such as breathtaking headlands,
15 coastal cliffs, sandy and rocky beaches, rolling grasslands, large forests, meandering streams,
16 and bays and inlets. Surrounded by the Pacific Ocean on its north, west, and southwest sides, the
17 National Seashore extends a quarter of a mile seaward from the mean high tide and includes the
18 tidelands and submerged lands within this zone. The National Seashore's natural resources are
19 among the most geologically and ecologically diverse in the National Park System.

20 20. The National Seashore's exceptional resources and rare characteristics have
21 garnered international, national, and local attention. The United Nations Educational, Scientific,
22 and Cultural Organization (UNESCO) designated the National Seashore as part of the California
23 Coast Biosphere Reserve. Point Reyes is the only National Seashore on the West Coast and one
24 of the best spots on the West Coast to observe marine mammals such as the Pacific gray whale.
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21. Point Reyes National Seashore is illustrated below on a map from National Park

Service:



22. The National Seashore provides habitat for a rich array of wildlife, including more than one hundred species of mammals and reptiles and amphibians. Wildlife species include salmonids, tule elk, seals, and mountain lions. Some of these species are listed as threatened or endangered under the federal Endangered Species Act (“ESA”), including Coho and Chinook salmon, snowy plovers, and the California Red-legged Frog.

1 23. Approximately 490 resident and migratory bird species use the National
2 Seashore, which constitutes over forty-five percent of all bird species found in North America
3 and is among the highest diversity of bird species found in any U.S. National Park.

4 24. The National Seashore has a rich diversity of plants that play important roles in
5 the health of the ecosystems found within. More than fifty of these species are listed as rare,
6 threatened, or endangered by the Federal Government, California, or the California Native Plant
7 Society. There are over 800 plant species but nearly 300 of those are non-native.

8 25. The National Seashore's freshwater resources include wetlands, lakes, small
9 rivers, ephemeral tributaries, and streams. The National Seashore's coastal and marine resources
10 include: Tomales Bay and its primary tributary, Lagunitas Creek; Drakes Estero and its several
11 bays and inlets; a large expanse of coastal areas; and Bolinas Lagoon and Bay. Drakes Estero
12 provides important ecosystem services, including habitat for fish, birds, and pinnipeds, and
13 recreational opportunities, including kayaking, beach hiking, and wildlife watching.

14 26. The Point Reyes National Seashore provides important and popular recreation
15 opportunities for local, national, and international visitors. The National Seashore offers visitors
16 dramatic views of ocean cliffs, rolling grassland vistas, and mountainous topography, which are
17 all enhanced by foggy conditions, sea breezes, and sunsets. The National Seashore includes
18 campgrounds, research and education centers, a hostel, and more than a hundred miles of hiking
19 trails. In recent years, the agency reported over two million recreational visits per year. Visitors
20 may engage in a variety of recreational activities such as hiking, camping, backpacking, wildlife
21 viewing, kayaking, cycling, picnicking, and swimming at the National Seashore.

22 27. A 2006 economic study prepared for the Park Service found that visitor
23 expenditures constitute the largest source of economic contributions from Point Reyes National
24 Seashore to the surrounding Marin and Sonoma Counties. This study found that in 2005, visitor
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1 expenditures comprised approximately fifty-three percent of the total economic contributions of
2 the National Seashore while agricultural activities comprised approximately seventeen percent.

3 28. The National Seashore has a rich cultural heritage that began with the Coast
4 Miwok Native Americans, who inhabited the peninsula as early as 5,000 years ago. The Park
5 Service estimates there are over 120 known Coastal Miwok archaeological sites within the
6 National Seashore.

7 29. The National Seashore's climate is typically characterized by temperate wet
8 winters with almost all rain occurring between November and April, and dry summers
9 accompanied by drought conditions that can last up to seven months. California has suffered
10 recently from extreme drought, which has exacerbated the impacts of typically dry summers by
11 reducing available water and contributing to poor vegetation conditions for wildlife.

12 30. The Park Service recognizes that climate change poses one of the greatest threats
13 in the history of the National Seashore and that resulting sea level rise will likely dramatically
14 change the coastal environment. Climate change impacts are expected to include eroded beaches
15 and coastline, submerged wetlands, loss of artifacts, reduction of habitable areas for plant and
16 animal species, and strained natural resources due to increased visitation on hot days. On April
17 16, 2008, Point Reyes National Seashore became a member of the Climate Friendly Parks
18 Network and committed to analyzing and reducing its carbon footprint.

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21 **Livestock Ranching at the Point Reyes National Seashore**

22 31. The National Park Service authorizes livestock ranching throughout a significant
23 portion of Point Reyes National Seashore. But, many ranches typically reflect large commercial
24 operations with substantially developed footprints, sprawling residential quarters for ranchers,
25 trailers or other housing for employees, waste disposal pits, and hundreds of cattle.
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1 32. As described in further detail below at ¶¶ 67-83, cattle grazing can harm the
2 National Seashore’s natural resources in numerous ways. Cattle grazing is generally known to
3 impair water quality, alter stream channels and hydrology, compact riparian soils, reduce riparian
4 and upland vegetation and native biodiversity, and increase runoff, erosion, and sediment loads
5 into water bodies. Such impacts are detrimental to riparian areas, impair or eliminate important
6 fish habitat components, and adversely affect salmonids and other fish species.

7
8 33. The Park Service itself admits that cattle grazing can degrade grassland and wet
9 meadow habitats and contribute to water quality degradation through manure and waste runoff.

10 **The Point Reyes National Seashore Enabling Legislation**

11 34. In 1962, Congress passed legislation to establish Point Reyes National Seashore
12 “to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the
13 diminishing seashore of the United States that remains undeveloped....” Pub. L. No. 87-657, 76
14 Stat. 538 (1962) (current version at 16 U.S.C. § 459c *et seq.*) (the “Point Reyes Act”).

15 35. On October 20, 1972, the Park Service formally established the Point Reyes
16 National Seashore through publication in the Federal Register. 37 Fed. Reg. 23,366 (1972).

17 36. The Point Reyes Act authorized the Secretary of the Interior (“the Secretary”) to
18 acquire the lands, waters, and other property within the bounds of Point Reyes Peninsula in
19 Marin County, California. 16 U.S.C. § 459c-2, c-4. Congress has appropriated over \$50 million
20 to accomplish these acquisitions. 16 U.S.C. § 459c-7.

21 37. In 1976, Congress designated more than 33,000 acres, or nearly half of the
22 National Seashore, as wilderness and potential wilderness. *See* Pub. L. No. 94-544, 90 Stat.
23 2515 (1976); Pub. L. No. 94-567 § 1(k), 90 Stat. 2692, 2693 (1976). The wilderness area
24 encompasses forests, grasslands, beaches, and coastline at the National Seashore and includes
25 over 100 miles of trails.
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1 38. In 1978, Congress allowed owners of agricultural property to reserve a right of
2 use and occupancy for twenty-five years or the life of the owner or her spouse as a condition to
3 acquisition. Pub. L. No. 95-625, § 318(b), 92 Stat. 3487 (1978) (codified as amended at 16
4 U.S.C. § 459c-5(a)). The Secretary could terminate the reservations with a “determination that it
5 is being exercised in a manner inconsistent with the purposes of this Act.” *Id.*

6 **The Park Service Must Protect the Resources of Point Reyes from Impairment**

7 39. Congress created the Park Service through the Organic Act in 1916 and has since
8 required the agency to promote and regulate the use of federal areas within the National Park
9 System known as National Parks, National Monuments, and other specified reservations:
10

11 by means and measures that conform to the fundamental purpose of the System units,
12 which purpose is to conserve the scenery, natural and historic objects, and wild life in the
13 System units and to provide for the enjoyment of the scenery, natural and historic objects,
14 and wild life in such manner and by such means as will leave them unimpaired for the
15 enjoyment of future generations.

16 54 U.S.C. § 100101(a) (originally enacted at ch. 408, § 1, 39 Stat. 535) (previous version at 16
17 U.S.C. § 1) (emphasis added). This underscored language is called the Organic Act’s “non-
18 impairment mandate.” System units include “any area of land and water administered by the
19 Secretary, acting through the Director, for park, monument, historic, parkway, recreational, or
20 other purposes,” such as Point Reyes National Seashore. 54 U.S.C. § 100501; *id.* at § 100102(6).

21 40. In 2014, Congress reaffirmed the Organic Act’s non-impairment mandate through
22 enactment of the NPS Act. 54 U.S.C. § 100101(a).

23 41. The Park Service defines “impairment” as any authorized activity that “would
24 harm the integrity of park resources or values, including the opportunities that otherwise would
25 be present for the enjoyment of those resources or values.” 2006 NPS Management Policies, §
26 1.4.5.

1 42. To ensure that an authorized activity does not violate the non-impairment
2 mandate, the Park Service must determine that an activity will not impair park values or
3 resources prior to authorizing the activity. *See, e.g., Sierra Club v. Mainella*, 459 F. Supp. 2d 76,
4 103 (D.D.C. 2006).

5 43. Even where resources and values are not at risk of impairment, the Park Service
6 still must fulfill the “fundamental purpose” of the National Park System, which is “to conserve
7 park resources and values” and provide “for the enjoyment of park resources and values by the
8 people of the United States.” 2006 Management Policies, § 1.4.3.

9 44. When a conflict arises between “conserving resources and values and providing
10 for enjoyment of them, conservation is to be predominant.” *Id.* Where the Park Service has
11 discretionary authority to authorize a use, that discretion may only be exercised where “the use
12 will not cause impairment or unacceptable impacts.” *Id.* at § 1.4.3.1. The Park Service may not
13 infer or imply that Congress intended to allow for impairment of park resources or values, unless
14 the enabling legislation provides “explicitly” for the activity “in terms that keep the Service from
15 having the authority to manage the activity so as to avoid the impairment.” *Id.* at § 1.4.4.

16 45. In the Point Reyes Act, Congress expanded on its non-impairment mandate by
17 explicitly requiring the Park Service to administer the National Seashore “without impairment of
18 its natural values, in a manner which provides for such recreational, educational, historic
19 preservation, interpretation, and scientific research opportunities as are consistent with, based
20 upon, and supportive of the maximum protection, restoration, and preservation of the natural
21 environment within the area,” unless otherwise provided in the Act. 16 U.S.C. § 459c-6(a).

22 **The Park Service’s Limited Authority to Permit Livestock Ranching**

23 46. Under the NPS Act, the Park Service may issue regulations that allow the agency
24 to “grant the privilege to graze livestock” within a System unit, such as Point Reyes, but only
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1 when the “use is not detrimental to the primary purpose for which” that System unit was created.
2 54 U.S.C. § 102101(a)(2) (previous version at 16 U.S.C. § 3).

3 47. Utilizing this authority, the Park Service issued regulations in 1983 that actually
4 prohibit livestock grazing for agricultural purposes within System units, unless a) specifically
5 authorized by Federal statute, b) required under a reservation of rights, or c) designated as a
6 necessary and integral part of a recreational activity or as required to maintain a historic scene.
7 36 C.F.R. § 2.60(a). Grazing allowed under one of those three exceptions must be authorized
8 “pursuant to the terms and conditions of a license, permit or lease.” *Id.* at 2.60(b).
9

10 48. In 1978, Congress provided the Secretary with the discretion to lease land at Point
11 Reyes that was agricultural prior to acquisition by the Park Service. 16 U.S.C. § 459c-5(a).
12 However, such leases “shall be subject to such restrictive covenants as may be necessary to carry
13 out the purposes of the Act.” *Id.*

14 49. The Park Service’s 2006 Management Policies declare that the agency “will phase
15 out the commercial grazing of livestock whenever possible.” 2006 NPS Management Policies §
16 4.4.4.1. These Policies explain that the agency will only allow commercial grazing where it
17 “does not cause unacceptable impacts on park resources and values.” *Id.* at § 8.6.8.2.
18

19 50. Further, each System Unit “must address this use in an appropriate planning
20 document,” use best management practices to protect resources, regulate livestock so ecosystems
21 and animals are not significantly altered or threatened, and implement a comprehensive
22 monitoring program and adaptive management practices. *Id.* at § 8.6.8.2. The agency is not
23 allowed to “expend funds to construct or maintain livestock structures unless there is a direct
24 benefit to the protection of park resources.” *Id.* § at 8.6.8.2.2.
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26 51. The Park Service has issued regulations that govern when the superintendent of a
27 park unit may issue a permit to authorize “an otherwise prohibited or restricted activity or
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1 impose a public use limit,” such as livestock grazing. *See* 36 C.F.R. § 1.6(a) (1983). An activity
2 authorized by such a permit “shall be ... based upon a determination that public health and
3 safety, environmental or scenic values, natural or cultural resources, scientific research,
4 implementation of management responsibilities, proper allocation and use of facilities, or the
5 avoidance of conflict among visitor use activities will not be adversely impacted.” *Id.* at (b).

6 52. The sum of all these regulations is that the NPS mandate for the National
7 Seashore is to phase out the commercial grazing of livestock where possible, and that livestock
8 grazing at Point Reyes may only be authorized (through a lease, permit, or license) if grazing
9 will allow for the conservation of, and not impair, the National Seashore’s resources or values
10 and opportunities to use and enjoy them.

11
12 **The National Park Service Must Prepare and Timely Revise a General Management**
13 **Plan for Point Reyes**

14 53. In 1978, Congress enacted legislation requiring the National Park Service to
15 prepare and revise general management plans for the preservation and use of national parks and
16 other lands under its jurisdiction. *See* Pub. L. 95-625, § 604(3) (previous version at 16 U.S.C. §
17 1a-7(b)). With the 2014 NPS Act, Congress reaffirmed that “[g]eneral management plans for the
18 preservation and use of each System unit . . . shall be prepared and revised in a timely manner by
19 the Director.” 54 U.S.C. § 100502 (previous version at 16 U.S.C. § 1a-7(b)).

20 54. Such General Management Plans (“GMPs”) “shall include”:

- 21 (1) measures for the preservation of the area’s resources;
- 22 (2) indications of types and general intensities of development (including visitor
23 circulation and transportation patterns, systems, and modes) associated with public
24 enjoyment and use of the area, including general locations, timing of implementation,
25 and anticipated costs;
- 26 (3) identification of and implementation commitments for visitor carrying capacities for
27 all areas of the System unit; and
- 28

1 (4) indications of potential modifications to the external boundaries of the System unit,
2 and the reasons for the modifications.

3 54 U.S.C. § 100502 (previous version at 16 U.S.C. § 1a-7(b)).

4 55. The Park Service has issued Management Policies that indicate how the agency
5 follows the NPS Act’s direction to revise GMPs “in a timely manner.” The Management
6 Policies explain that “[a]s necessary, general management plans will be reviewed and amended
7 or revised, or a new plan will be prepared, *to keep them current*. GMP reviews may be needed
8 every 10 to 15 years, *but may be needed sooner if conditions change significantly*. If conditions
9 remain substantially unchanged, a longer period between reviews would be acceptable.” 2006
10 Management Policies § 2.3.1.12 (emphasis added). Such periodic revisions should occur even in
11 parks “with strong traditions and established patterns of use and development.” *See Id.*
12 Revisions provide “everyone with a major stake in the park an opportunity to revalidate the
13 park’s role in the nation and in the region and reevaluate whether the kinds of resource
14 conditions and visitor experiences being pursued are the best possible mix for the future.” *Id.*

15
16 **The Decades-old General Management Plan for the Point Reyes National Seashore**

17 56. In 1980, the Park Service issued a General Management Plan (“1980 GMP”) for
18 the National Seashore and an accompanying General Management Plan Environment
19 Assessment (“GMP EA”) that established general management objectives, land management
20 zoning, and strategies for future management for the National Seashore. The 1980 GMP
21 identified management zones for natural, historic, development, and special use purposes.

22
23 57. The GMP EA explained that the Pastoral Zone included lands where “dairying
24 and cattle ranching are desirable aspects of the scene from both an educational and aesthetic
25 point of view” and that in this area “where feasible, livestock grazing will continue within the
26 limits of carefully monitored range capacities.” However, the Park Service recognized that
27 “natural resource management considerations will not support grazing in all areas where it has
28

1 occurred historically.” The agency also stated that livestock activities in the Pastoral Zone
2 should be managed consistently with resource carrying capacity, and the agency should monitor
3 and improve range management practices in the Pastoral Zone.

4 58. The 1980 GMP stated the following about the National Seashore’s values:

5 The rare juxtaposition of an outstanding natural area with a major metropolitan
6 population presents a special opportunity and responsibility—to convey an environmental
7 message to millions of people by facilitating and interpreting a unique outdoor
8 experience. With perceptive management and sensitive development, the national
9 seashore will continue to sustain a relatively high volume of use. However, the primary
10 objectives for the park must continue to relate to the natural integrity of the seashore,
11 upon which the quality of a Point Reyes experience totally depends.

12 59. The 1980 GMP identified several objectives that reflect the agency’s desire to
13 prioritize natural resources over other uses. Those objectives include: identifying, protecting,
14 and perpetuating the diversity of existing ecosystems; protecting marine mammals, threatened
15 and endangered species, and sensitive natural resources; enhancing ecosystem management
16 through research and programs related to wildlife, regulation and control of resources use, and
17 pollution control; and ensuring that development is “the minimum necessary.”

18 60. Since issuance of the 1980 GMP more than thirty-five years ago, numerous
19 changes have occurred to the Point Reyes National Seashore, including climate change threats,
20 the expiration of most ranchers’ rights of use and occupancy, the ESA-listing of numerous
21 species, and changes to visitor uses and needs.

22 61. For example, the GMP/EA found that automobile emissions are the primary air
23 pollution sources and the only air quality problem affecting the National Seashore. But, newer
24 science and data have identified methane emissions from dairies as the overwhelming source of
25 greenhouse gas emissions at the National Seashore, emissions that the agency pledged to reduce
26 in 2008. Also in 2008, the Park Service announced in its Climate Action Plan that cattle
27 management related emission sources are the “largest contributor” of greenhouse gas emissions.
28

1 That same year, the agency claimed that the “the vast preponderance” of greenhouse gas
2 emissions at Seashore “are from dairy wastes (or manure) in the form of methane gas.”

3 62. On October 14, 1997, May 24, 1999, and February 3, 2000, the Park Service
4 issued notices of intent to prepare a new General Management Plan and Environmental Impact
5 Statement (“GMP/EIS”) for the National Seashore. 62 Fed. Reg. 53336; 64 Fed. Reg. 28008; 65
6 Fed. Reg. 5365-66. The announced purpose of the GMP/EIS was “to state the management
7 philosophy for the Seashore and provide strategies for addressing major issues.” 65 Fed. Reg.
8 5365-66. The agency announced it would consider two strategies required to “manage and
9 preserve cultural and natural resources” and to “provide for safe, accessible, and appropriate use
10 of those resources by visitors.” *Id.* The agency explained the GMP/EIS would “guide
11 management of park lands over the subsequent 10-15 years.” *Id.*

13 63. After these announcements, the Park Service accepted scoping comments from
14 the public and held workshops. In 1999, the agency announced a draft EIS and plan would be
15 provided to the public in the summer of 2001, and the final EIS and Record of Decision in spring
16 2002. On information and belief, the agency did not issue a GMP/EIS by these stated deadlines.

18 64. For the next several years, the Park Service continued to provide the public with
19 information about the GMP/EIS process through newsletters, summaries of comments received,
20 and updates, which are currently available on the agency’s website.

21 65. In a 2003 newsletter to the public, the Park Service announced five alternative
22 management concepts for the Point Reyes National Seashore to be considered in the GMP/EIS
23 revision, and sought public comments. Of these five alternatives for future management of the
24 National Seashore, three contemplated reductions in ranching, while only one contemplated
25 expanding such operations.
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1 66. In 2008, the agency announced it would release a draft GMP/EIS during the fall
2 of 2008 or the winter of 2009 and a final GMP/EIS and Record of Decision in 2009. However,
3 the agency never completed the GMP revision process. On information and belief, the agency is
4 not currently planning to revise the GMP.

5 **Ranching Impacts on Park Resources**

6 67. Current ranching operations and practices cause or threaten significant adverse
7 impacts to the natural resources, wildlife, cultural objects, recreational opportunities, educational
8 opportunities, and public enjoyment of the Point Reyes National Seashore.
9

10 68. For example, in March 2013, the Park Service issued a lengthy report entitled
11 “Coastal Watershed Assessment for Golden Gate National Recreation Area and Point Reyes
12 National Seashore” (hereinafter “Watershed Assessment”) that documented numerous examples
13 of how ranching harms the coastal, water, and other natural resources of the National Seashore.
14 Most notably, the Park Service found that principal threats to the National Seashore’s water
15 quality include bacterial and nutrient pollution associated with ranches and dairies. The
16 Watershed Assessment analyzed available water quality data for the National Seashore and
17 found that water quality issues were associated with ranch areas.
18

19 69. In particular, the Watershed Assessment determined dairies are a high level
20 stressor of the coastal resources of the Drakes Bay, Limantour, Kehoe, and Abbots areas. For
21 example, the Park Service reported that “[e]xtremely high fecal coliform concentrations have
22 been documented in streams adjacent to existing dairy operations,” and that areas where dairies
23 spread manure “are correlated with the increased presence of invasive and noxious weed
24 species.” A truck spreading what appears to be manure at the Point Reyes National Seashore is
25 depicted in the 2015 photo below:
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9 70. The Watershed Assessment also found that “[d]airies and ranching are associated
10 with other impacts to wetland and riparian process.” Other studies confirm that dairies are the
11 primary source of non-point source pollution within Drakes Estero watershed.

12 71. Livestock grazing is generally known to negatively impact several wildlife
13 species that inhabit the National Seashore and are listed as threatened or endangered under the
14 federal ESA. The federal decisions to list many of these species identified livestock grazing as a
15 contributing factor to degradation of habitat conditions or threats to these species.
16

17 72. For example, NOAA Fisheries identified livestock grazing as a contributor to the
18 degradation of salmonid habitat on the West Coast through overgrazing in riparian areas and soil
19 compaction of upland areas.
20

21 73. Similarly, U.S. Fish and Wildlife Service explained, in its ESA listing decisions,
22 that livestock grazing threatens California red-legged frog and the Myrtle’s silverspot butterfly.

23 74. On April 5, 2004, NOAA Fisheries issued a Biological Opinion (“BiOp”) that
24 assessed the effects of the Park Service’s renewal of livestock grazing permits throughout the
25 National Seashore and Golden Gate National Recreation Area (“GGNRA”) on threatened
26 salmonids and designated critical habitat under the ESA. NOAA Fisheries concluded that the
27 grazing program “is likely to result in take of [Central California Coast] coho salmon, [California
28

1 Coastal] Chinook salmon, and [Central California Coast] steelhead.” After issuance of the BiOp,
2 monitoring showed that endangered coho salmon declined during four consecutive seasons
3 through 2011.

4 75. On September 25, 2002, the U.S. Fish & Wildlife Service (“USFWS”) issued a
5 BiOp on the effects of the Park Service’s renewal of grazing permits within the National
6 Seashore and GGNRA on the endangered and threatened species, and designated critical habitat
7 under the ESA. USFWS concluded that the grazing program was likely to adversely affect the
8 Pacific Coast population of the western snowy plover and the California red-legged frog; and did
9 not concur with the Park Service’s determination the program was not likely to adversely affect
10 the Sonoma alopecurus, Sonoma spineflower, Tiburon paintbrush, beach layia, Tidestrom’s
11 lupine, northern spotted owl, and Myrtle’s silverspot butterfly. Ultimately, USFWS anticipated
12 grazing to “take” California red-legged frogs, western snowy plover, and Myrtle’s silverspot
13 butterflies.
14

15 76. The Park Service admits that grazing at the National Seashore also causes coastal
16 erosion. As grazing reduces vegetation abundance, and compacts and disturbs soils, erosion
17 increases. Erosion can affect the hydrology of streams, trigger slope failures, require expensive
18 stabilization efforts, and threaten archaeological sites.
19

20 77. Members of the public report that current ranching practices at the National
21 Seashore can impede and impair recreational opportunities. While the public is supposed to have
22 access to the National Seashore for recreation, members of the public report that ranching
23 interferes with recreational and aesthetic interests and pursuits. For example, public comments
24 submitted during the Ranch Plan scoping process (discussed below) reported recreational issues
25 associated with cattle waste, unpleasant odors and sights, mowing, reduced wildlife sightings,
26 trail erosion, and a lack of biking opportunities.
27
28

1 78. Structures and improvements associated with some ranches threaten the natural
2 resources of the National Seashore. Water diversions such as dams are located on some ranches
3 and impair water resources and fish species by interfering with natural stream function and fish
4 passage. In the Watershed Assessment, the Park Service reported that two dams at the Home
5 Ranch and Kehoe Ranch are in poor condition; and that the Home Ranch dam “poses a
6 significant downstream hazard due to its proximity to recreational areas.”

7
8 79. The Park Service has identified ranch roads as a maintenance issue. Large bulk
9 milk trucks traverse the narrow and windy Sir Francis Drake Boulevard to collect milk from
10 dairies at the National Seashore on a daily basis, which likely contributes to pavement
11 degradation, road construction repairs, traffic, and emissions. The agency reports that sections of
12 this road “in the vicinity of the ranches exhibit some of the highest pavement distress, as well as
13 highest frequency of patching and pavement overlays.”

14
15 80. During the scoping and public comment process on the proposed GMP revision in
16 the early to mid-2000s (discussed above), members of the public expressed concerns about
17 ranching impacts at the National Seashore, emphasized the preservation of natural resources
18 rather than cultural ones, and requested expansion of recreation opportunities.

19 81. On information and belief, the Park Service allows ranching to continue despite
20 indications that some ranchers are not in compliance with all terms and conditions of the
21 ranching authorizations. For example, cow carcasses have been found decomposing at the
22 National Seashore despite the typical authorization requirement that such carcasses be promptly
23 removed from the National Seashore. In some instances, the Park Service has found that cattle
24 exceed the number authorized and that cattle trespass outside of authorized areas.

25
26 82. In the Watershed Assessment, the Park Service noted that the impacts of historic
27 grazing in other locations are “evident and pervasive” even once discontinued.

1 83. Despite these known and potential adverse impacts, the Park Service continues to
2 use taxpayer dollars to allow these private enterprises to operate on the public lands of the Point
3 Reyes National Seashore.

4 **Tule Elk Re-Introduction and Deaths**

5 84. Tule elk are a majestic animal endemic to California. For centuries, tule elk freely
6 roamed the Point Reyes Peninsula until they were extirpated in the area by the mid-nineteenth
7 century due, in part, to agriculture and hunting.

8 85. In 1976, Congress declared “the protection and maintenance of California’s tule
9 elk in a free and wild state is of educational, scientific, and esthetic value to the people of the
10 United States” and thus the “restoration and conservation of a tule elk population in California of
11 at least two thousand . . . is an appropriate national goal.” 16 U.S.C. § 673d; Pub. L. No. 94-389,
12 90 Stat. 1189 (1976). Congress thus required the Secretary of the Interior to “develop a plan for
13 Tule elk restoration and conservation, including habitat management” in coordination with other
14 governments with jurisdiction over existing or suitable tule elk habitat. 16 U.S.C. § 673g.
15 Congress required the Secretary of the Interior to make land under her jurisdiction “reasonably
16 available for the preservation and grazing of Tule elk . . .” 16 U.S.C. § 673e.
17

18 86. In 1978, the Park Service re-introduced ten individual tule elk at the National
19 Seashore. To protect ranches, the agency erected a three-mile long fence across the peninsula
20 from the Pacific Ocean to Tomales Bay to restrict the population to a 2,600-acre area at the tip of
21 Tomales Point. Initially, the population at Tomales Point struggled in size. After cattle were
22 removed from the preserve, conditions improved and the elk population increased rapidly. The
23 tule elk herd there grew into one of the largest populations in California at one time.

24 87. To address later management issues that arose, the Park Service issued a Tule Elk
25 Management Plan and Environmental Assessment in 1998 (“1998 Tule Elk Plan”) to consider
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1 different management alternatives. Goals established included maintaining viable populations of
2 the species, using minimal intrusion, and providing for a free-ranging elk herd. To meet these
3 goals, the Park Service introduced a herd of twenty-eight individuals into Limantour Estero
4 Wilderness area and intended for this herd to establish a population without fenced ranges.

5 88. The Park Service's re-introduction of tule elk at the National Seashore is an
6 example of successful restoration of dominant native herbivores within the coastal ecosystem.
7 The Park Service believes that the National Seashore's tule elk populations "symbolize the
8 conservation of native species and ecosystem processes, one of the primary missions of the
9 National Park Service." Further, the Park Service reports that the tule elk's presence at the
10 National Seashore "is treasured by visitors, photographers, naturalists, and locals alike."

12 89. Numerous members of the public who submitted comments during the scoping
13 process for the Ranch Plan (discussed below) urged the Park Service to protect the tule elk,
14 remove the Tomales Point fence, and allow elk populations to expand throughout the Pastoral
15 Zone. The free-ranging herd provides excellent opportunities for the public to observe the elk
16 without traveling to Tomales Point, at the far end of the National Seashore.

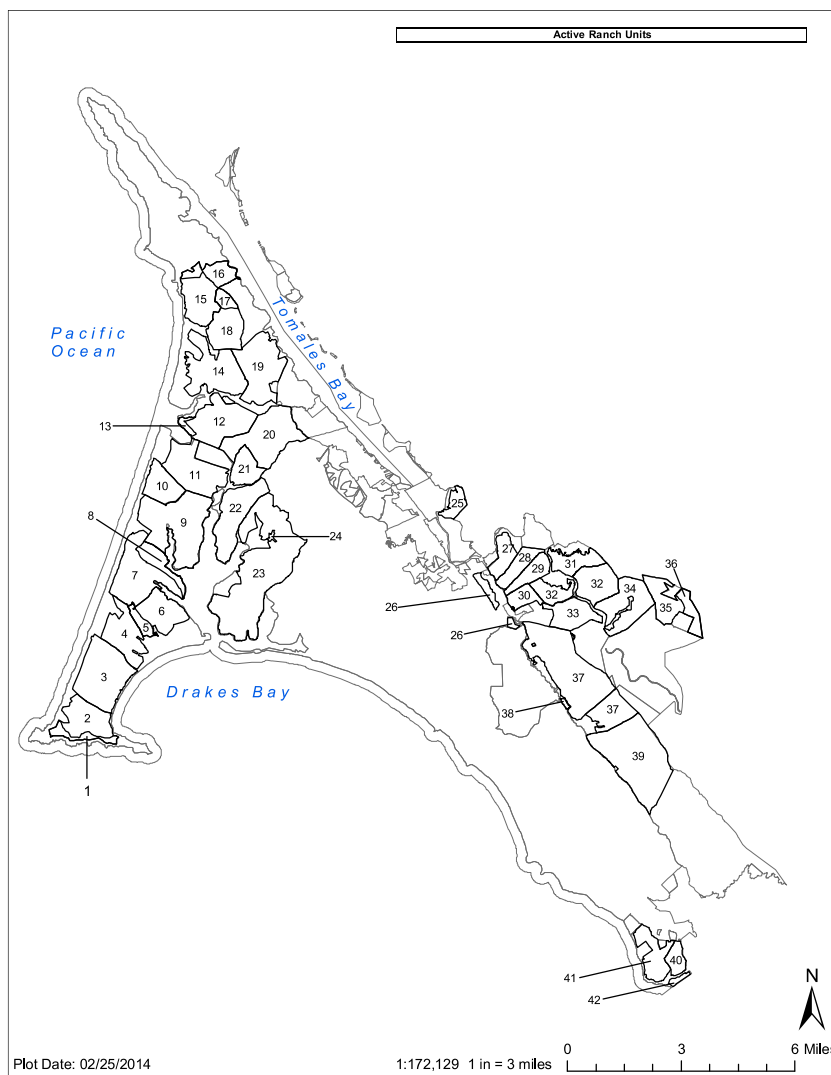
18 90. Between 2012 and 2014, roughly two hundred tule elk at Tomales Point died.
19 The Park Service announced to the public that "the drought has likely contributed to the recent
20 decline in the tule elk population at Tomales Point." In the 1998 Tule Elk Plan, the Park Service
21 reported that Tomales Point includes no natural year-round streams, as natural streams only have
22 significant flows during the rainy winter months. The Tomales Point fence prevented tule elk
23 from roaming to other areas of the National Seashore with adequate year-round water resources.

25 91. Fences at the National Seashore can harm and kill tule elk. Tule elk can get
26 caught in fences that they try to jump, get pieces of barbed wire stuck around their antlers or
27 bodies, and become trapped under and/or within fencing. Despite these existing problems facing
28

1 tulle elk, some ranchers are calling for the Park Service to undertake additional management
2 actions to protect ranches from tulle elk.

3 The Park Service's Management and Authorization of Ranching on the Seashore

4 92. The Park Service authorizes livestock ranching on the Point Reyes National
5 Seashore on approximately twenty-five active ranch units. These ranch units comprise roughly
6 eighteen thousand acres as depicted in the following map²:
7



2 This map also depicts ranch units on Golden Gate National Recreation Area, which is located to east of Point Reyes and southeast Tomales Bay.

1 93. These active ranch units are public lands owned by the federal government that
2 were acquired through payments of millions of dollars to private landowners.

3 94. The Park Service authorizes livestock ranching on these units through agricultural
4 leases/permits, special use permits, letters of authorization, extensions, and/or other final agency
5 actions (collectively “ranching authorizations”). Nearly all of the ranching authorizations are
6 issued for dairy or beef ranches that include cattle grazing, although the Park Service also
7 authorizes a chicken operation and a horse and vegetable farm.
8

9 95. Such ranching authorizations are needed to continue ranching because nearly all
10 of the ranchers’ reservations of rights of use and occupancy have expired.

11 96. The Park Service’s ranching authorizations on the Point Reyes National Seashore
12 are typically effective for a term of one to ten years. Ranchers and their employees typically
13 may reside on the ranches. The authorizations generally set some environmental and range
14 management standards, prohibit harm to wildlife, require removal of livestock carcasses, and
15 allow for public access on rangeland.
16

17 97. Before issuing or renewing authorizations for livestock grazing on federal public
18 lands, the Park Service must comply with the National Environmental Policy Act (“NEPA”) by
19 preparing an environmental impact statement (“EIS”) or environmental assessment (“EA”). *See*
20 42 U.S.C. § 4332(2)(C); *see* 40 C.F.R. § 1500.1(a); *see, e.g., Natural Resources Defense*
21 *Council, Inc. v. Morton*, 388 F. Supp. 829, 834 (D.D.C. 1974) (“Grazing clearly may have a
22 severe impact on local environments.”), *aff’d without opinion*, 527 F.2d 1386 (D.C. Cir. 1976).
23 NEPA “require[s] that agencies take a hard look at environmental consequences” of their actions
24 and “provide for broad dissemination of relevant environmental information.” *Robertson v.*
25 *Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (quotations omitted). Such
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1 procedures ensure “that environmental information is available to public officials and citizens
2 before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b).

3 98. On information and belief, the Park Service did not comply with NEPA before
4 issuing any prior or current ranching authorizations for the active ranch units on Point Reyes
5 National Seashore.

6 99. Moreover, it appears that virtually all of the term grazing permits or leases that
7 the Park Service previously issued to authorize livestock ranching on the National Seashore have
8 expired; and the Park Service has recently been using *ad hoc* measures to continue authorizing
9 livestock ranching on the National Seashore, without any public input or evaluation under
10 NEPA. The Park Service has announced to the public that it is issuing letters of authorization
11 allowing ranching to continue where agricultural leases/permits or special use permits have
12 expired until the agency issues new leases/permits.
13

14 **Interior and Park Service Ranching Directives**

15 100. On November 29, 2012, then-Secretary of the Interior Ken Salazar issued a
16 memorandum to the Director of the National Park Service regarding the expiration of a lease for
17 an oyster company in the National Seashore, which authorized the Park Service to pursue
18 extending permits to ranchers in the Pastoral Zone with a term of twenty years (“2012
19 Memorandum”).
20

21 101. In this 2012 Memorandum, the Secretary expressed the Department of the
22 Interior’s support for the “continued presence of dairy and beef ranching operations in Point
23 Reyes’ pastoral zone.” The Secretary directed the Superintendent of the National Seashore to
24 work with the ranchers to reaffirm his intention that “the role of ranching be maintained” and
25 that the agency “pursue extending permits to twenty-year terms for the dairy and cattle ranches
26 within that pastoral zone.” Further, the Memorandum asserted that “the values of multi-
27
28

1 generational ranching and farming at Point Reyes should be fully considered in future planning
2 efforts,” as “[t]hese working ranches are a vibrant and compatible part of Point Reyes National
3 Seashore, and both now and in the future represent an important contribution to Point Reyes’
4 superlative natural and cultural resources.”

5 102. In a follow-up letter from the Park Service Director Jonathan Jarvis to the
6 Regional Director dated January 31, 2013 (“2013 Letter”), Director Jarvis delegated the authority
7 to issue ranching permits with terms of up to twenty years and directed the park superintendent
8 to review the permit structure to serve the interests of the ranchers “while meeting [the Park
9 Service’s] responsibilities to protect natural and cultural resources.” The Director opined that
10 twenty-year permits would provide “greater certainty for the ranches” and “demonstrate the
11 support of the National Park Service [] and the Department of the Interior for the continued
12 presence of dairy and beef ranching operations.”

13 103. This 2013 Letter further advised that the agricultural leases/permits are not
14 subject to leasing authority under 16 U.S.C. 1a-2(k) nor 36 C.F.R. Part 18. This letter
15 proclaimed that the agency supports multi-generational ranching and dairying within the pastoral
16 zone of the National Seashore and claimed the letter is consistent with the Point Reyes Act. This
17 letter further directed the National Seashore to “assure that current authorizations are continued
18 while the new permit structure is developed and implemented.”

21 **Ranch Management Plan**

22 104. On April 21, 2014, the Park Service initiated a process to prepare a Ranch
23 Comprehensive Management Plan/Environmental Assessment (“Ranch Plan”) for approximately
24 28,000 acres of ranch lands, including those within the National Seashore. In a press release that
25 day, Defendant Superintendent Muldoon included the following quote:

26
27 Ranching is integral to our history and to our future here at Point Reyes National
28 Seashore. . . . For more than 50 years, ranchers and the park have been working together.

1 This plan is an opportunity to build on that past, address current issues, and strengthen
2 our shared stewardship of these lands. This plan will set a strong foundation for ranching
now and into the future.

3 105. Between that announcement and June 2, 2014, the agency took thousands of
4 scoping comments from the public that identified concerns and issues to address in the planning
5 process. The agency held scoping and community workshops in 2014. A number of public
6 comments were critical of the agency's continued authorization and management of ranching.

7
8 106. The agency has explained that the purpose of the Ranch Plan is "to establish a
9 comprehensive framework for the management of existing ranch lands administered by Point
10 Reyes National Seashore under agricultural lease/special use permits (lease/permits), with terms
11 up to 20 years." The agency has revealed its support for ranching by explaining:

12 Ranching has a long and important history on the Point Reyes peninsula and adjacent
13 National Park Service lands. These working ranches are a vibrant part of Point Reyes
14 National Seashore and represent an important contribution to the superlative natural and
15 cultural resources of these NPS lands. Protection of these diverse and unique resources is
16 an important responsibility shared by the NPS and park ranchers within the agricultural
17 lease/permit areas. On November 29, 2012, the Secretary of the Interior issued a
18 memorandum authorizing the NPS to pursue long-term lease/permits for dairy and beef
19 ranching operations. The Secretary's memorandum demonstrates the support of the NPS
20 and the Department of the Interior for the continued presence of dairy and beef ranching
21 operations within these NPS lands. A comprehensive management plan is needed:

- 22 • To articulate a clear vision for ranching on existing ranch lands administered by Point
23 Reyes National Seashore.
- 24 • To implement the Secretary of the Interior's direction to pursue issuance of
25 lease/permits with terms up to 20 years.
- 26 • To address concerns related to tule elk impacts to existing ranch operations.
- 27 • To provide clear guidance and streamline processes for park and regulatory review of
28 proposed ranching activities, including best management practices that promote
protection of park resources.

107. The Park Service announced several objectives for the Ranch Plan based on the
assumption that the agency would authorize ranching within the National Seashore long into the
future. Of more than a dozen objectives, the agency explained its two "overarching objectives . . .

1 . are to enable the park to issue 20 year ranch permits and to devise an effective management
2 strategy for tule elk affecting ranch lands”

3 108. During 2014, the Park Service announced that the Ranch Plan “marks the first
4 time in the Seashore’s history that a plan for and about ranching has been undertaken.” The
5 agency also admitted that “[b]road planning with regard to management of lands under
6 agricultural lease/permits has not been conducted since the 1980 General Management Plan.”

7
8 109. At one point, the agency announced to the public that it would release a draft
9 Ranch Plan during the spring or summer 2015, and the final decision document and response to
10 comments during fall 2015. However, the agency has still not issued a draft or final Ranch Plan.
11 The agency now anticipates that it will release an environmental assessment for public review
12 and comment and complete the planning process later in 2016.

13 110. As of November 2014, the Park Service announced management techniques for
14 tule elk that it would consider in the Ranch Plan were: contraception, translocation of elk outside
15 the park, lethal removal, fencing, hazing, and habitat enhancements.

16
17 **FIRST CLAIM FOR RELIEF:**
18 **APA Violation For Agency Action Unlawfully Withheld /Unreasonably Delayed**
19 **In Revising General Management Plan**

20 111. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

21 112. This First Claim for Relief challenges the Defendants’ refusal or failure to revise
22 the General Management Plan for the Point Reyes National Seashore in a timely manner as
23 required by the NPS Act, 54 U.S.C. § 100502 (previous version at 16 U.S.C. § 1a-7(b)); and
24 seeks judicial relief ordering Defendants to adopt a current and valid General Management Plan
25 on a reasonably expedited schedule.

26 113. The Court has jurisdiction and authority to review this claim and provide relief to
27 Plaintiffs pursuant to the Administrative Procedure Act, which directs that a “reviewing court
28

1 shall – (1) compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. §
2 706(1).

3 114. Congress has mandated in the NPS Act that the Park Service must revise its
4 general management plans “in a timely manner.” 54 U.S.C. § 100502 (previous version at 16
5 U.S.C. § 1a-7(b)). The agency interprets this command to require each park unit, including the
6 Point Reyes National Seashore, to keep a general management plan current by making revisions
7 approximately every ten to fifteen years, or sooner if conditions change significantly. 2006 Park
8 Service Management Policies § 2.3.1.12.

9
10 115. The Park Service has violated the statutory command of the NPS Act and ignored
11 its own policies and findings by failing to revise and update the 1980 GMP for the Point Reyes
12 National Seashore, which is now more than thirty-five years old and badly outdated.

13 116. As discussed above, the Park Service has itself repeatedly recognized that the
14 1980 GMP for the Point Reyes National Seashore needs to be revised, including through notices
15 published in the Federal Register in 1997, 1999, and 2000; and its proposal of five management
16 alternatives in 2003, when the Park Service asserted that a revised GMP would be adopted by
17 2006. However, Defendants never issued a draft or final GMP as promised, and have since
18 abandoned their intention to revise the 1980 GMP.

19
20 117. Defendants’ refusal and failure to adopt a current and valid General Management
21 Plan for the Point Reyes National Seashore represents agency action “unlawfully withheld or
22 unreasonably delayed” under the APA, the NPS Act, the Park Service’s implementing policies,
23 and the facts presented, justifying the relief requested from the Court.

24
25 118. Moreover, the Defendants’ refusal to adopt a current and valid General
26 Management Plan is further unlawful and unreasonable in light of the fact that the Park Service
27 is now proceeding with the Ranch Plan process to consider issuance of ranching authorizations
28

1 with up to twenty-year terms, rather than revising the 1980 GMP. By preparing a Ranch Plan
2 that will lock in ranching practices for the long-term *before* updating the 1980 GMP, Defendants
3 are unlawfully prioritizing ranching above other uses of the National Seashore. This decision is
4 unlawful and unreasonable because issuance of the Ranch Plan and twenty-year ranching
5 authorizations will prevent the agency from considering numerous management options for the
6 National Seashore, such as alternatives that focus on natural resources or visitor opportunities
7 that the Park Service proposed. Revising the 1980 GMP *after* issuance of the Ranch Plan will be
8 untimely because the agency will be unable to follow its policies that require the agency to
9 reevaluate the National Seashore's role, resources conditions, uses, and visitor experiences to
10 determine whether the agency should continue these patterns in the future or whether the
11 resources and visitor experiences are threatened with impairment or degradation.
12

13 119. Thus, the Court should issue declaratory, injunctive and/or other relief pursuant to
14 the NPS Act and APA Section 706(1) ordering Defendants to adopt a lawful, updated, and valid
15 General Management Plan for the Point Reyes National Seashore on a reasonably expedited
16 schedule, before Defendants may proceed to complete the proposed Ranch Plan process.
17

18 WHEREFORE, Plaintiffs pray for relief as set forth below.

19 **SECOND CLAIM FOR RELIEF:**
20 **Current Ranching Authorizations Violate NEPA and APA**

21 120. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

22 121. This Second Claim For Relief challenges the Defendants' issuance of ranching
23 authorizations within the last six years on the Point Reyes National Seashore in violation of
24 NEPA, 42 U.S.C. § 4321 *et seq.*, and NEPA's implementing regulations. This Second Claim for
25 Relief is brought under the APA's provisions for judicial review of final agency actions, 5
26 U.S.C. §§ 701 - 706(2).
27
28

1 122. As discussed above, the Park Service has issued ranching authorizations, which
2 include agricultural leases/permit, special use permits, letters of authorization, and/or other final
3 agency actions that authorize livestock grazing upon the Point Reyes National Seashore over the
4 past six years without preparing any evaluation of potential environmental impacts or
5 alternatives, as required by NEPA.

6 123. Current ranching practices and activities upon the Point Reyes National Seashore
7 pose significant adverse environmental impacts, and Defendants' ranching authorizations
8 constitute major federal action(s) significantly affecting the environment, thus requiring
9 compliance with NEPA.
10

11 124. On information and belief, the Park Service has never evaluated the actual or
12 potential adverse direct, indirect and cumulative environmental impacts of its ranching
13 authorizations on the Point Reyes National Seashore in any NEPA-compliant document.
14

15 125. Defendants' violations of NEPA in issuing the current ranching authorizations for
16 the Point Reyes National Seashore are final agency actions subject to judicial review under 5
17 U.S.C. §§ 706(2)(A) & (D), which must be reversed and set aside because the ranching
18 authorizations were issued without the procedures required by law and are arbitrary, capricious,
19 an abuse of discretion, and/or contrary to law.
20

21 WHEREFORE, Plaintiffs pray for relief as set forth below.

22 **THIRD CLAIM FOR RELIEF:**
23 **Current Ranching Authorizations Violate**
24 **National Park Service Act, Point Reyes Act, and 36 C.F.R. § 1.6(a)**

25 126. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

26 127. This Third Claim for Relief challenges Defendants' issuance of current ranching
27 authorizations within the last six years upon the Point Reyes National Seashore without ensuring
28 that such authorizations comply with the Point Reyes Act, 16 U.S.C. § 459c *et seq.*, and the NPS

1 Act, 54 U.S.C. § 100101 *et seq.*, and by failing to make a determination that livestock ranching
2 will not adversely impact, *inter alia*, the environment and natural resources, as required under
3 the Park Service’s regulations, 36 C.F.R. § 1.6. This Third Claim for Relief is brought under the
4 APA’s provisions for judicial review of final agency actions, 5 U.S.C. §§ 701 - 706(2).

5 128. The Point Reyes Act requires the Park Service to administer the National
6 Seashore “without impairment of its natural values, in a manner which provides for such
7 recreational, educational, historic preservation, interpretation, and scientific research
8 opportunities as are consistent with, based upon, and supportive of the maximum protection,
9 restoration, and preservation of the natural environment within the area,” unless otherwise
10 provided. 16 U.S.C. § 459c-6(a). Further, leases issued under the Point Reyes Act must be
11 “subject to such restrictive covenants as may be necessary to carry out the purposes of” the Act.
12 16 U.S.C. § 459c-5(a).

13 129. The NPS Act requires the agency to regulate the use of the National Seashore to
14 conserve the scenery, wildlife, and other natural resources, to provide for the public’s enjoyment
15 of such resources, and to leave such resources “unimpaired for the enjoyment of future
16 generations” by prohibiting uses that cause “unacceptable impacts.” 54 U.S.C. § 100101(a)
17 (previous version at 16 U.S.C. § 1); 2006 NPS Management Policies, §§ 1.4.3.1, 1.4.7.1. The
18 NPS Act allows the Park Service to authorize livestock grazing when such “use is not
19 detrimental to the primary purpose for which” the National Seashore was created. 54 U.S.C. §
20 102101(a)(2) (previous version at 16 U.S.C. § 3).

21 130. Consistent with these obligations, the Park Service’s regulation that governs its
22 issuance of permits for uses such as livestock grazing requires that such permits be consistent
23 with other federal laws, and “based upon a determination that public health and safety,
24 environmental or scenic values, natural or cultural resources, scientific research, implementation
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1 of management responsibilities, proper allocation and use of facilities, or the avoidance of
2 conflict among visitor use activities will not be adversely impacted.” 36 C.F.R. § 1.6(a).

3 131. The Park Service’s reports and other data indicate that livestock ranching
4 authorized at the National Seashore impairs or threatens to impair natural values, resources,
5 public recreation, wildlife, and other purposes for which the National Seashore was created.

6 132. Despite such evidence, the agency has never conducted a comprehensive
7 assessment of the impacts of livestock ranching nor prepared a comprehensive management plan
8 that analyzes and determines whether and how current operations may be authorized in
9 compliance with the Point Reyes Act, the NPS Act, and the agency’s regulations.
10

11 133. In the absence of such assessments and determinations for each ranching
12 authorization, the Park Service has failed to ensure that livestock ranching authorizations do not
13 impair natural values, are consistent with the maximum protection, restoration, and preservation
14 of the natural environment, and include the restrictive covenants necessary to carry out the
15 purposes of the act, which include preserving recreation. 16 U.S.C. §§ 459c, 459c-5(a), 459c-
16 6(a). Further, the Park Service has failed to make the determination required under 36 C.F.R. §
17 1.6 before issuing such authorizations.
18

19 134. Defendants’ current ranching authorizations for the Point Reyes National
20 Seashore are final agency actions subject to judicial review under 5 U.S.C. §§ 706(2)(A) & (D),
21 which must be reversed and set aside because the authorizations were issued without procedures
22 required by law and are arbitrary, capricious, an abuse of discretion, and/or contrary to law.
23

24 **REQUEST FOR RELIEF**

25 WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

26 A. Order, declare, and adjudge that Defendants’ failure or refusal to revise the
27 General Management Plan for the Point Reyes National Seashore constitutes agency action
28

1 unlawfully withheld or unreasonably delayed under the APA, NPS Act and other applicable
2 authorities;

3 B. Order Defendants to adopt a lawful, updated, and valid General Management Plan
4 for the Point Reyes National Seashore on a reasonably expedited schedule, before Defendants
5 may proceed to complete the proposed Ranch Plan process;

6 C. Order, declare, and adjudge that Defendants violated NEPA and the APA in
7 issuing current ranching authorizations for the Point Reyes National Seashore during the past six
8 years;

9 D. Order, declare, and adjudge that Defendants violated the Point Reyes Act, the
10 NPS Act, 36 C.F.R. § 1.6(a), and the APA in issuing current ranching authorizations for the
11 Point Reyes National Seashore during the past six years;

12 E. Vacate and set aside the unlawful agency decisions challenged herein;

13 F. Order Defendants to comply with NEPA, the Point Reyes Act, the NPS Act, and
14 the agency's regulations, before issuing any further ranching authorizations for the Point Reyes
15 National Seashore;
16 National Seashore;

17 G. Enter such other declaratory relief and/or preliminary or permanent injunctive
18 relief as hereafter prayed for by Plaintiffs;

19 H. Award Plaintiffs their reasonable costs, litigation expenses, and attorney's fees
20 associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 *et*
21 *seq.*, and all other applicable authorities; and/or
22

23 I. Grant such further relief as the Court deems necessary or appropriate to redress
24 the Defendants' legal violations and protect the Point Reyes National Seashore and the natural
25 resources and public lands within.
26

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Dated: February 10, 2016

KEKER & VAN NEST LLP

By: /s/ Jeffrey R. Chanin
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JESSE BASBAUM

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