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

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs,

19 v.

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

22 Defendants.  
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Case No. 16-0688 SBA

**FIRST AMENDED COMPLAINT**

(Administrative Procedure Act Case)

Date Filed: February 10, 2016

Trial Date: None Set

**INTRODUCTION**

1  
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.  
9

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 (“GMP”),  
14 consistent with the overriding legal mandates that the National Seashore’s wildlife and natural  
15 resources receive “maximum protection” and be left “unimpaired for the enjoyment of future  
16 generations.” 16 U.S.C. § 459c-6(a); 54 U.S.C. § 100101(a) (previous version at 16 U.S.C. § 1).  
17

18 3. In violation of these legal mandates, the National Park Service has not issued a  
19 new or revised GMP since 1980, though it acknowledged at the turn of the century that the old  
20 plan was badly outdated due to substantially changed conditions such as increased visitor use,  
21 the successful reintroduction of tule elk, the listing of many threatened and endangered species,  
22 and the expiration or imminent expiration of leases and reservations of use for commercial dairy  
23 and cattle grazing on public lands that could be put to public use. The National Park Service also  
24 has conducted studies showing that the uses of the Seashore allowed in the 1980 GMP, which  
25 were authorized without preparing an Environmental Impact Statement (“EIS”) that evaluates  
26 their effects and impacts on the Seashore’s environment, fail adequately to preserve and protect  
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1 the National Seashore's natural and recreational resources from current threats, such as severe  
2 drought and climate change. Since at least 2000, if not before, the National Seashore has been  
3 desperately in need of a new or a revised GMP and EIS that assesses the impacts of, and chooses  
4 appropriate uses for, the Seashore's natural resources that serve and support the Park Service's  
5 fundamental, statutory mandate to provide "*maximum protection, restoration, and preservation*  
6 *of the natural environment within the [Seashore].*" Absent a new or revised GMP and an EIS,  
7 the agency cannot select appropriate uses for the National Seashore's resources, or ensure that its  
8 individual management decisions do not impair them.  
9

10 4. Even though, to create the National Seashore, the public paid many millions of  
11 dollars to acquire at fair market value private ranchlands within its boundaries, even though the  
12 Park Service is not mandated by any law to allow or continue livestock ranching and dairying at  
13 the Seashore and may only lease agricultural lands to carry out the conservation purposes for  
14 which the Seashore was created, and even though the leases and use reservations granted during  
15 the 1970's for livestock operations long-ago expired, with no commitment to renew them  
16 indefinitely, the Park Service still authorizes private commercial dairy operations and livestock  
17 ranching on roughly 18,000 acres of the National Seashore (comprising nearly half of its non-  
18 wilderness areas), without ever having prepared a comprehensive environmental analysis of the  
19 adverse impacts posed by current ranching practices. A list of the Park Service's ranching  
20 authorizations that are currently in effect and challenged herein are attached as Attachment A.  
21 Nor has it evaluated whether current ranching impairs the National Seashore's environmental  
22 resources—especially as compared to alternative public uses for the publicly owned lands being  
23 used for commercial ranching pursuits—in violation of the National Environmental Policy Act  
24 ("NEPA") and the underlying substantive requirements for management.  
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1           5.       While the purpose of this lawsuit is not to end all ranching at the National  
2 Seashore, further commercial ranching on its publicly owned lands should only be permitted if,  
3 and to the extent that, it is in keeping with the purposes of the Point Reyes Act and the Organic  
4 Act, which can only properly be determined through a GMP and EIS that evaluate the impacts of  
5 ranching on the Seashore's resources, as compared to alternative uses. But, there is good cause  
6 to be concerned that commercial ranching, especially dairying, undermines the purposes for  
7 which the Seashore was created and the "non-impairment" management directives that Congress  
8 mandated for its stewardship. The Park Service's own studies and many others indicate that the  
9 existing commercial ranching operations being conducted at the National Seashore are impacting  
10 adversely and impairing its natural and recreational resources, including its water quality, its  
11 sensitive and endemic wildlife, and the inspirational and recreational uses for which it was  
12 created as a unit of our national parks. Whether the ranching operations are consistent with the  
13 substantive requirements for management of the National Seashore is thus very much in doubt.

14  
15           6.       Yet the Park Service has embarked on a process to plan for and grant new long-  
16 term leases for ranching, before identifying the cumulative and site specific impacts of current  
17 ranching operations on the Seashore's environment and natural resources, assessing its  
18 contribution to the Seashore's greenhouse gas emissions, its true cost to the Park Service and the  
19 public's enjoyment of the Seashore, and the extent to which it violates the non-impairment  
20 mandate. Without ever having conducted an EIS assessing the impacts of ranching, without  
21 completing a new GMP that evaluates alternative strategies for management of the Seashore in  
22 light of the substantially changed conditions since 1980, and without giving the public the  
23 opportunity to weigh in on whether commercial ranching should continue, and if so, to what  
24 extent, in light of these conditions, the Park Service has decided that "ranching is here to stay" at  
25 the Point Reyes National Seashore. Management by fiat is not how publicly owned, national  
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27  
28

1 treasures like the Point Reyes Seashore should be managed, it is bad stewardship—however  
2 expedient, and it violates several laws directing how important decisions like this must be made.

3 7. Accordingly, Plaintiffs bring this action to require the Defendants to prepare a  
4 new or revised General Management Plan for the Point Reyes National Seashore, and to fully  
5 analyze the impacts of livestock ranching on the natural and recreational resources of the  
6 Seashore, as required by NEPA and substantive laws governing the National Seashore. The Park  
7 Service must fulfill these legal requirements by developing a current, comprehensive, general  
8 management plan for the future uses of the National Seashore, together with an EIS that  
9 evaluates the impacts of such uses, before continuing its current ranch planning process that  
10 assumes the continuation or expansion of one private, commercial use by very few individuals of  
11 publicly owned and administered lands for which many were paid fair market value long ago,  
12 and that focuses on their long-term needs and not the public's.

#### 13 **JURISDICTION AND VENUE**

14  
15 8. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action  
16 arises under the laws of the United States, including the Park Service's Organic Act, 16 U.S.C. §  
17 1 *et seq.* (2013) (current version at 54 U.S.C. § 100101 *et seq.*);<sup>1</sup> the NPS Act, 54 U.S.C. §  
18 100101 *et seq.*; the Point Reyes National Seashore enabling legislation, 16 U.S.C. § 459c *et seq.*;  
19 the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*; the Administrative Procedure  
20 Act, 5 U.S.C. § 701 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the  
21 Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.*  
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25 <sup>1</sup> On December 19, 2014, Congress passed legislation entitled “National Park Service and  
26 Related Programs” (hereinafter the “NPS Act”). Pub. L. No. 113-287, 128 Stat. 3094 (2014)  
27 (codified at 54 U.S.C. § 100101 *et seq.*). The NPS Act repealed and codified legislation  
28 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.  
FIRST AMENDED COMPLAINT – Page 5

9. 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.

10. 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.

11. 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.

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

**PARTIES**

13. Plaintiff RESOURCE RENEWAL INSTITUTE (“RRI”) is a non-profit corporation with its principal place of business in Mill Valley, California, in the County of Marin. RRI was founded in 1985 by Huey D. Johnson, a lifelong environmentalist and former California Secretary of Resources with a longstanding connection to Point Reyes and its natural resources. RRI facilitates the creation, development, and implementation of practical strategies to solve environmental problems in a comprehensive framework. RRI’s work includes a program called Defense of Place, which helps communities protect parks, wildlife refuges, and open space in perpetuity. Through this program, RRI protects parklands, nature preserves, and conservation easements whose legal charters are threatened by sale, development, and predatory changes in use. RRI also works to protect lands set aside for preservation or public use so that they are never sacrificed for economic or political motives.

1           14. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (“the Center”) is a non-  
2 profit organization with offices in California and elsewhere across the country and more than  
3 3,000 members and supporters in Marin County. The Center’s mission is to ensure the  
4 preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands  
5 and waters, and public health through science, policy, and environmental law. The Center and  
6 its members are concerned with the conservation of imperiled species that use Point Reyes, and  
7 the effective implementation of laws to protect species and their habitat.  
8

9           15. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a non-profit  
10 membership organization with offices in California and other western states, and is dedicated to  
11 protecting and restoring watersheds and wildlife in the American West through education, public  
12 policy initiatives, and legal advocacy. WWP has over 1,500 members, including members  
13 located in the San Francisco Bay Area. WWP, as an organization and on behalf of its members,  
14 is concerned with and seeks to protect and improve the public lands, wildlife, other natural  
15 resources, and ecological values of western watersheds, particularly by addressing impacts  
16 caused by domestic livestock grazing.  
17

18           16. Plaintiffs RRI, the Center, and WWP have members, staff, and/or supporters who  
19 live or work near, or who use and enjoy the public lands and waters of the Point Reyes National  
20 Seashore for recreation, conservation, aesthetic, and/or other uses. These uses are harmed by the  
21 Defendants’ violations of laws alleged herein, including the Park Service’s failure to adopt a  
22 current and valid General Management Plan that affords “maximum protection” for the National  
23 Seashore’s wildlife and natural resources and leaves them “unimpaired for the enjoyment of  
24 future generations.” These uses also are harmed by Defendants’ authorizations of ranching  
25 within the National Seashore, which typically include cattle grazing, and residential activities  
26 (collectively “livestock ranching”). For example, livestock ranching routinely prevents members  
27  
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1 of the public, including Plaintiffs' staff, members, and/or supporters, from accessing and  
2 enjoying portions of the National Seashore, and impacts adversely the quality of recreation  
3 opportunities where they do occur. The agency's failure to adequately manage, analyze, and  
4 plan for livestock ranching exacerbates these injuries by increasing their negative impacts on the  
5 natural resources and recreational opportunities. The agency has also injured Plaintiffs and their  
6 members and/or supporters by depriving them of analyses, procedures, and public comment  
7 opportunities required by the NPS Act, NEPA, and the agency's own regulations.  
8

9 17. Defendant NATIONAL PARK SERVICE is an agency or instrumentality of the  
10 United States, within the U.S. Department of the Interior. The Park Service is vested with the  
11 authority and duty to manage and protect the public lands and resources of the Point Reyes  
12 National Seashore, as alleged herein.

13 18. Defendant CICELY MULDOON is the Superintendent of the Point Reyes  
14 National Seashore, and is responsible for day-to-day implementation of planning and activities  
15 and ensuring that the Park Service's management of activities within the National Seashore  
16 complies with applicable laws. She is sued solely in her official capacity, for her actions as an  
17 employee within the National Park Service, a division of the U.S. Department of the Interior.  
18

19 19. Defendants' violations of law, as alleged herein, injure the aesthetic, conservation,  
20 scientific, recreational, educational, wildlife preservation, procedural, and/or other interests of  
21 Plaintiffs. These are actual, concrete injuries caused by Defendants' violations of law, and the  
22 judicial relief sought would remedy, in whole or in part, these injuries.  
23

## 24 **FACTUAL AND LEGAL BACKGROUND**

### 25 **Overview of the Point Reyes National Seashore**

26 20. Point Reyes is located on a coastal peninsula in western Marin County, California,  
27 that encompasses approximately 71,000 acres and 80 miles of coastline. The Point Reyes  
28



1 National Seashore contains stunning and diverse landscapes such as breathtaking headlands,  
 2 coastal cliffs, sandy and rocky beaches, rolling grasslands, large forests, meandering streams,  
 3 and bays and inlets. Surrounded by the Pacific Ocean on its north, west, and southwest sides, the  
 4 National Seashore extends a quarter of a mile seaward from the mean high tide and includes the  
 5 tidelands and submerged lands within this zone. The National Seashore’s natural resources are  
 6 among the most geologically and ecologically diverse in the National Park System.

7  
 8 21. Point Reyes National Seashore is illustrated below on a map from the National  
 9 Park Service:



1           22.     The National Seashore’s exceptional resources and rare characteristics have  
2     garnered international, national, and local attention. The United Nations Educational, Scientific,  
3     and Cultural Organization (UNESCO) designated the National Seashore as part of the California  
4     Coast Biosphere Reserve. Point Reyes is the only National Seashore on the West Coast and one  
5     of the best spots on the West Coast to observe marine mammals such as the Pacific gray whale.

6           23.     The National Seashore provides habitat for a rich array of wildlife, including  
7     more than one hundred species of mammals and reptiles and amphibians. Wildlife species  
8     include salmonids, tule elk, seals, and mountain lions. Around fifty species of National Seashore  
9     wildlife are now listed as threatened, endangered, or rare under the federal Endangered Species  
10    Act (“ESA”) and other laws, including Coho and Chinook salmon, snowy plovers, and the  
11    California red-legged frog. The Seashore is the only unit within the National Park System where  
12    visitors can see magnificent tule elk, who are endemic to California and roamed freely at Point  
13    Reyes for millennia, until they were completely extirpated from the Seashore in the 1870’s  
14    through uncontrolled hunting and displacement by cattle. In 1978, the Park Service took ten tule  
15    elk from the single remaining herd in California and brought them back to their original home at  
16    the Seashore. At first they failed to thrive, but after cattle were removed from the small preserve  
17    where they were fenced off from adjacent dairy ranches, the elk herd multiplied to almost 500  
18    animals—until approximately half of them died from insufficient water and forage during the  
19    droughts of 2013-2014, which the Park Service in 1998 predicted might occur without adequate  
20    rainfall. On the other side of the fence, none of the dairy cattle died.

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

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

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

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

19           28.     A 2006 economic study prepared for the Park Service found that visitor  
20 expenditures constitute the largest source of economic contributions from Point Reyes National  
21 Seashore to the surrounding Marin and Sonoma Counties. This study found that in 2005, visitor  
22 expenditures comprised approximately fifty-three percent of the total economic contributions of  
23 the National Seashore, while agricultural activities comprised approximately seventeen percent.  
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1           29.     The National Seashore has a rich cultural heritage that began with the Coast  
2 Miwok Native Americans, who inhabited the peninsula as early as 5,000 years ago. The Park  
3 Service estimates there are over 120 known Coastal Miwok archaeological sites within the  
4 National Seashore.

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

11           31.     The Park Service recognizes that climate change poses one of the greatest threats  
12 in the history of the National Seashore and that resulting sea level rise will likely dramatically  
13 change the coastal environment. Climate change impacts are expected to include eroded beaches  
14 and coastline, submerged wetlands, loss of artifacts, reduction of habitable areas for plant and  
15 animal species, and strained natural resources due to increased visitation on hot days. On April  
16 16, 2008, Point Reyes National Seashore became a member of the Climate Friendly Parks  
17 Network, and a year later it committed to a 25% reduction of its greenhouse gas emissions from  
18 cattle manure, which accounted for nearly 78% of the Seashore's total emissions the previous  
19 year.  
20

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

22           32.     The National Park Service authorizes livestock ranching throughout a significant  
23 portion of Point Reyes National Seashore. But, far from being "pastoral," many of the ranches  
24 are large commercial operations with substantially developed footprints, sprawling operations  
25 buildings and residential quarters for ranch owners, trailers or other housing for employees,  
26 waste disposal pits, and hundreds of head of cattle.  
27  
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1           33. As described in further detail below at ¶¶ 67-82, 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. The cattle also  
7 compete for scarce forage with tule elk, while the barbed wire fences erected to keep the cattle in  
8 also keep visitors out, and ensnare the back legs of elk and other herbivores who try leap the  
9 fences in search of needed food or water. A tule elk caught in barbed wire at the Seashore is  
10 depicted in the photograph below:  
11



24           34. The Park Service itself admits that cattle grazing can degrade grassland and wet  
25 meadow habitats and contribute to water quality degradation through manure and waste runoff.

26 ///

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### The Point Reyes National Seashore Enabling Legislation

1  
2 35. In 1962, Congress passed enabling legislation to establish the Point Reyes  
3 National Seashore, in order “to save and preserve, for purposes of public recreation, benefit, and  
4 inspiration, a portion of the diminishing seashore of the United States that remains  
5 undeveloped....” Pub. L. No. 87-657, 76 Stat. 538 (1962) (current version at 16 U.S.C. § 459c *et*  
6 *seq.*) (the “Point Reyes Act”).

7  
8 36. The Point Reyes Act authorized the Secretary of the Interior (“the Secretary”) to  
9 acquire the lands, waters, and other property within the bounds of Point Reyes Peninsula in  
10 Marin County, California, though originally only \$14 million was appropriated to fund the  
11 acquisitions. 16 U.S.C. § 459c-2, c-4. In order to appease ranchers within the Seashore’s  
12 bounds and overcome their vocal opposition to creating a National Seashore, the original  
13 enabling act prohibited the taking of agricultural lands by eminent domain, so long as they  
14 remained agricultural. Pub. L. No. 87-657 § 4, 76 Stat. 538 (1962).

15  
16 37. In 1970, after agricultural land costs greatly escalated and completion of the  
17 National Seashore was in jeopardy, Congress amended the Point Reyes Act to repeal Section 4  
18 prohibiting the condemnation of agricultural lands, it increased the appropriation to acquire such  
19 lands to \$57.5 million, and provided that “no freehold, *leasehold*, or lesser interest in any lands  
20 hereafter acquired ... shall be conveyed for residential *or commercial* purposes....” 16 U.S.C. §  
21 459c-7 (emphasis added). During the hearing on the 1970 amendments, at the behest of Marin  
22 County, a spokesman for all the dairy ranchers within the Seashore represented to the Senate  
23 Subcommittee that, while the dairymen had originally objected to formation of the Seashore so  
24 they could continue dairying on their land, conditions had changed, dairying was not compatible  
25 with the Seashore, and the ranchers now unanimously favored these amendments:  
26

27 I asked them if, when they sold their land to the parks assuming they made an  
28 agreeable sale, would they want to put in a provision that allowed [them] to

1 continue operating their dairies, and their answer, without exception, again was,  
2 let's sell the land and never mind putting in provisions.

3 They are willing to deal with the Park for the sale of their land without any  
4 conditions, meaning that they recognize they aren't going to dairy indefinitely in  
5 Marin County. None of us are ... *This is because we recognize something that the  
6 Park Service was not made aware of by us when they came in and set this  
7 Pastoral zone up, and that is that dairying, with the necessity of confining large  
8 herds of cattle tightly into pastures, is not compatible with public ownership of  
9 land.*

10 Point Reyes Act; Hearings on S. 1530 and H.R. 3786 Before the Senate Subcomm. on Parks and  
11 Recreation at 59-60 (1970) (Statement of Dairyman Spokesman Boyd Stewart) (emphasis  
12 added).

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

15 39. In 1978, Congress allowed owners of agricultural property not yet acquired for  
16 the Seashore to elect, at the time of acquisition, a right of use and occupancy for twenty-five  
17 years, or for the life of the owner and his or her spouse. Pub. L. No. 95-625, § 318(b), 92 Stat.  
18 3487 (1978) (codified as amended at 16 U.S.C. § 459c-5(a)). The Secretary could terminate any  
19 such reservations with a "determination that it is being exercised in a manner inconsistent with  
20 the purposes of this Act." *Id.*

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

22 40. Congress created the Park Service through the Organic Act in 1916 and has since  
23 required the agency to promote and regulate the use of federal areas within the National Park  
24 System, such as the National Seashore:

25 by means and measures that conform to the *fundamental purpose* of the System units,  
26 which purpose is *to conserve the scenery, natural and historic objects, and wild life in the*  
27 *System units* and to provide for the enjoyment of the scenery, natural and historic objects,  
28 and wild life in such manner and *by such means as will leave them unimpaired for the*  
*enjoyment of future generations.*

54 U.S.C. § 100101(a) (originally enacted at ch. 408, § 1, 39 Stat. 535) (previous version at 16  
U.S.C. § 1) (emphasis added). This underscored language is often referred to as the Organic  
Act's "non-impairment mandate." System units include "any area of land and water

1 administered by the Secretary, acting through the Director, for park, monument, historic,  
2 parkway, recreational, or other purposes,” such as the Point Reyes National Seashore. 54 U.S.C.  
3 § 100501; *id.* at § 100102(6). In 2014, Congress reaffirmed the Organic Act’s non-impairment  
4 mandate through enactment of the NPS Act. 54 U.S.C. § 100101(a).

5 41. In 1976, Congress amended the Seashore’s management duties to emphasize  
6 conservation of its natural resources, providing that the property acquired for the Seashore shall  
7 be administered “without impairment of its natural values, in a manner which provides for such  
8 recreational, educational, historical preservation, interpretation and scientific research  
9 opportunities as are consistent with, based upon, and supportive of the maximum protection,  
10 restoration and preservation of the natural environment within the area....,” but also in  
11 accordance with other laws of general application relating to the national park system such as the  
12 Organic Act described above. *See* Pub. L. No. 94-544, 90 Stat. 2515 (1976); Pub. L. No. 94-567  
13 § 6(a), 90 Stat. 2692, 2693 (1976) (emphasis added). Congress also designated more than  
14 33,000 acres encompassing forests, grasslands, beaches, and coastlines as wilderness and  
15 potential wilderness.  
16  
17

18 42. The Park Service defines “impairment” as any authorized activity that “would  
19 harm the integrity of park resources or values, including the opportunities that otherwise would  
20 be present for the enjoyment of those resources or values.” 2006 NPS Management Policies, §  
21 1.4.5.

22 43. To ensure that an authorized activity does not violate the non-impairment  
23 mandate, the Park Service must determine that an activity will not impair park values or  
24 resources *prior to authorizing* the activity. *See, e.g., Sierra Club v. Mainella*, 459 F. Supp. 2d  
25 76, 103 (D.D.C. 2006).  
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1 44. Even where resources and values are not at risk of impairment, the Park Service  
2 still must fulfill the “fundamental purpose” of the National Park System, which is “to conserve  
3 park resources and values” and provide “for the enjoyment of park resources and values by the  
4 people of the United States.” 2006 NPS Management Policies, § 1.4.3. When a conflict arises  
5 between “conserving resources and values and providing for enjoyment of them, conservation is  
6 to be predominant.” *Id.*

7  
8 45. Where the Park Service has discretionary authority to authorize a use, such as  
9 ranching, that discretion may only be exercised where “the use will not cause impairment or  
10 unacceptable impacts.” *Id.* at § 1.4.3.1. The Park Service may not infer or imply that Congress  
11 intended to allow for impairment of park resources or values, unless the enabling legislation  
12 provides “explicitly” for the activity “in terms that keep the Service from having the authority to  
13 manage the activity so as to avoid the impairment.” *Id.* at § 1.4.4.

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

15  
16 46. Under the NPS Act, the Park Service may issue regulations that allow the agency  
17 to “grant the privilege to graze livestock” within a System unit, such as Point Reyes, but only  
18 when the “use is not detrimental to the primary purpose for which” that System unit was created.  
19 54 U.S.C. § 102101(a)(2) (previous version at 16 U.S.C. § 3).

20 47. Utilizing this authority, the Park Service issued regulations in 1983 that actually  
21 prohibit livestock grazing for agricultural purposes within System units, unless a) specifically  
22 authorized by Federal statute, b) required under a reservation of rights, or c) designated as a  
23 necessary and integral part of a recreational activity or as required to maintain a historic scene.  
24 36 C.F.R. § 2.60(a). Grazing allowed under one of those three exceptions must be authorized  
25 “pursuant to the terms and conditions of a license, permit or lease.” *Id.* at 2.60(b).

1           48.     In 1978, Congress provided the Secretary with the discretion to lease land at Point  
2 Reyes that was agricultural prior to its acquisition by the Park Service. 16 U.S.C. § 459c-5(a).  
3 However, such leases “shall be subject to such restrictive covenants as may be necessary to carry  
4 out the purposes of the Act.” *Id.* Neither the prohibition on leasing acquired lands for  
5 “residential or commercial purposes” in Section 7, nor the fundamental non-impairment purposes  
6 in Section 6(a) of the Act were repealed or amended when this lease authority was granted.

7           49.     The Park Service’s 2006 Management Policies declare that the agency “will phase  
8 out the commercial grazing of livestock whenever possible.” 2006 NPS Management Policies §  
9 4.4.4.1. These Policies explain that the agency will only allow commercial grazing where it  
10 “does not cause unacceptable impacts on park resources and values.” *Id.* at § 8.6.8.2.

11           50.     Further, each System Unit “must address this use in an appropriate planning  
12 document,” use best management practices to protect resources, regulate livestock so ecosystems  
13 and animals are not significantly altered or threatened, and implement a comprehensive  
14 monitoring program and adaptive management practices. *Id.* at § 8.6.8.2. The agency is not  
15 allowed to “expend funds to construct or maintain livestock structures unless there is a direct  
16 benefit to the protection of park resources.” *Id.* § at 8.6.8.2.2.

17           51.     The Park Service has issued regulations that govern when the superintendent of a  
18 park unit may issue a permit to authorize “an otherwise prohibited or restricted activity or  
19 impose a public use limit,” such as livestock grazing. *See* 36 C.F.R. § 1.6(a) (1983). An activity  
20 authorized by such a permit “shall be ... based upon a determination that public health and  
21 safety, environmental or scenic values, natural or cultural resources, scientific research,  
22 implementation of management responsibilities, proper allocation and use of facilities, or the  
23 avoidance of conflict among visitor use activities will not be adversely impacted.” *Id.* at (b).

1           52.     The sum of all these regulations is that the NPS mandate for the National  
2 Seashore is to phase out the commercial grazing of livestock where possible, and that  
3 commercial ranching at Point Reyes may only be authorized (through a lease, permit, or license)  
4 if such ranching will allow for the conservation of, and not impair, the National Seashore’s  
5 natural resources or values, or the public’s opportunities to use and enjoy them.

6           **The National Park Service Must Prepare and Timely Revise a General Management**  
7 **Plan for Point Reyes**

8           53.     In 1978, Congress enacted legislation requiring the National Park Service to  
9 prepare and revise general management plans for the preservation and use of national parks and  
10 other lands under its jurisdiction. *See* Pub. L. 95-625, § 604(3) (previous version at 16 U.S.C. §  
11 1a-7(b)). With the 2014 NPS Act, Congress reaffirmed that “[g]eneral management plans for the  
12 preservation and use of each System unit . . . shall be prepared and revised in a timely manner by  
13 the Director.” 54 U.S.C. § 100502 (previous version at 16 U.S.C. § 1a-7(b)).

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

- 15           (1) measures for the preservation of the area’s resources;
- 16           (2) indications of types and general intensities of development (including visitor  
17 circulation and transportation patterns, systems, and modes) associated with public  
18 enjoyment and use of the area, including general locations, timing of implementation,  
19 and anticipated costs;
- 20           (3) identification of and implementation commitments for visitor carrying capacities for  
21 all areas of the System unit; and
- 22           (4) indications of potential modifications to the external boundaries of the System unit,  
23 and the reasons for the modifications.

24           54 U.S.C. § 100502 (previous version at 16 U.S.C. § 1a-7(b)).

25           55.     The Park Service has issued Management Policies that indicate how the agency  
26 follows the NPS Act’s direction to revise GMPs “in a timely manner.” The Management  
27 Policies explain that “[a]s necessary, general management plans will be reviewed and amended  
28

1 or revised, or a new plan will be prepared, *to keep them current*. GMP reviews may be needed  
2 every 10 to 15 years, *but may be needed sooner if conditions change significantly*. If conditions  
3 remain substantially unchanged, a longer period between reviews would be acceptable.” 2006  
4 NPS Management Policies § 2.3.1.12 (emphasis added). Periodic revisions or new plans should  
5 be adopted even for parks “with strong traditions and established patterns of use and  
6 development.” *See Id.* Revisions provide “everyone with a major stake in the park an  
7 opportunity to revalidate the park’s role in the nation and in the region and reevaluate whether  
8 the kinds of resource conditions and visitor experiences being pursued are the best possible mix  
9 for the future.” *Id.*

11 **The Decades-old General Management Plan for the Point Reyes National Seashore**  
12 **is Inadequate and its Management Zoning is Completely Out-of-Date**

13 56. In 1980, the Park Service issued a General Management Plan (“1980 GMP”) for  
14 the National Seashore and an accompanying Environmental Assessment (“GMP EA”) that  
15 established general management objectives, land management zoning, and strategies for future  
16 management for the National Seashore. The 1980 GMP identified “management zones” for  
17 natural, historic, development, and special use purposes, including a “Pastoral Zone” for  
18 ranching.

19 57. The GMP EA explained that the Pastoral Zone included lands where “dairying  
20 and cattle ranching are desirable aspects of the scene from both an educational and aesthetic  
21 point of view” and that in this area “where feasible, livestock grazing will continue within the  
22 limits of carefully monitored range capacities.” However, even in 1980 the Park Service  
23 recognized that “natural resource management considerations will not support grazing in all  
24 areas where it has occurred historically.” The agency also stated that livestock activities in the  
25 Pastoral Zone should be managed consistently with resource carrying capacity, and the agency  
26 should monitor and improve range management practices in the Pastoral Zone.  
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28

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

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

6 1980 General Management Plan at 1 (emphasis added)

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

14 60. Since issuance of the 1980 GMP thirty-six years ago, numerous substantial  
15 changes have occurred at the National Seashore. These include, climate change threats, the  
16 expiration of most ranchers’ rights of use and occupancy, the ESA-listing of numerous species,  
17 changes to visitor uses and needs, and the successful re-introduction of endemic tule elk who not  
18 only have become a major visitor attraction for the Seashore, but in the words of the Park  
19 Service, have come to “symbolize the conservation of native species and ecosystem processes,  
20 one of the primary purposes of the National Park Service.” *See*  
21 [https://www.nps.gov/pore/learn/nature/tule\\_elk.htm](https://www.nps.gov/pore/learn/nature/tule_elk.htm).

23 61. As but one example, the 1980 GMP/EA found that automobile emissions were the  
24 primary air pollution sources and the only air quality problem affecting the National Seashore.  
25 But, newer science and data have identified methane emissions from dairy wastes (or manure) as  
26 the overwhelming source of greenhouse gas emissions at the National Seashore—accounting for  
27

1 nearly 78% of the Seashore’s total— emissions that the agency pledged to reduce by 25% after it  
2 became a Climate Friendly Park in 2008.

3 62. As another example, just two years before the 1980 GMP issued, in 1978, the  
4 California Department of Fish and Wildlife had just begun the reintroduction of extirpated tule  
5 elk to the Seashore (discussed further below). By 1998, the elk herd had multiplied to almost  
6 500 animals.

7 63. In the late 1990s, the Park Service acknowledged that a new GMP and an EIS  
8 were required due to changed conditions. On February 3, 2000, it published a notice  
9 (superseding two prior notices) of its intent to prepare an “Environmental Impact Statement and  
10 General Management Plan (EIS/GMP)” for the Seashore “to provide strategies for addressing  
11 major issues,” and to “guide management of park lands over the subsequent 10-15 years.” 65  
12 Fed. Reg. 5365-66 (Feb. 3, 2000). The agency announced it would consider two strategies  
13 required to “manage and preserve cultural and natural resources” and to “provide for safe,  
14 accessible, and appropriate use of those resources by visitors.” *Id.*

15 64. After these announcements, the Park Service accepted scoping comments from  
16 the public and held workshops. Though the agency had announced in 1999 that a draft EIS and  
17 GMP would be provided to the public in the summer of 2001, with the final EIS and Record of  
18 Decision to be recorded in the Spring of 2002, the agency did not issue a draft or final GMP/EIS  
19 by these stated deadlines.

20 65. For eight years between 2000-2008 the Park Service continued to provide the  
21 public with information about the GMP/EIS process, through newsletters, summaries of  
22 comments received, and updates, which are currently available on the agency’s website. In one  
23 of these updates—a 2003 newsletter to the public—the Park Service announced five alternative  
24 management concepts to be considered in the new GMP/EIS, as to which it solicited public  
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1 comments. Of these five alternatives for future management of the National Seashore, three  
2 contemplated reductions in ranching, while one would maintain the status quo, and only one  
3 contemplated expansion.

4 66. In the summer of 2008, the agency announced it had readied for a new, draft  
5 GMP/EIS to be released for public review and comment during the fall or winter of 2008, with a  
6 final GMP/EIS and Record of Decision to be recorded in 2009. However, the agency never  
7 released the promised draft. On information and belief, the draft GMP/EIS had completed policy  
8 review at both the regional and national level in or about 2009, and the agency had sufficient  
9 funds allocated to print the draft for release to the public, but then sidelined the draft due to  
10 ranching and political influence.

#### 12 **Ranching Impacts on Park Resources**

13 67. According to studies by the Park Service and other interested agencies, current  
14 ranching operations and practices cause or threaten significant adverse impacts to the natural  
15 resources, wildlife, cultural objects, recreational opportunities, educational opportunities, and  
16 public enjoyment of the Point Reyes National Seashore.

17 68. For example, in March 2013, the Park Service issued a lengthy report entitled  
18 “Coastal Watershed Assessment for Golden Gate National Recreation Area and Point Reyes  
19 National Seashore” (hereinafter “Watershed Assessment”) that documented numerous examples  
20 of how ranching harms the coastal, water, and other natural resources of the National Seashore.  
21 The Park Service noted in the Watershed Assessment that the adverse impacts of historic grazing  
22 in other locations are “evident and pervasive,” even once discontinued.

23 69. Most notably, the Park Service found that bacterial and nutrient pollution  
24 associated with ranches and dairies are among the principal threats to the National Seashore’s  
25 water quality, and that poor water quality issues were associated with ranch areas. Dairies in  
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1 particular were found to be a high level stressor of the coastal resources of the Drakes Bay,  
2 Limantour, Kehoe, and Abbots areas. For example, the Park Service reported that “[e]xtremely  
3 high fecal coliform concentrations have been documented in streams adjacent to existing dairy  
4 operations,” and that areas where dairies spread manure “are correlated with the increased  
5 presence of invasive and noxious weed species.” A truck at the National Seashore spreading  
6 what appears to be manure is depicted in the 2015 photo below:  
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16 70. The Watershed Assessment also found that “[d]airies and ranching are associated  
17 with other impacts to wetland and riparian process.” Other studies confirm that dairies are the  
18 primary source of non-point source pollution within Drakes Estero watershed.

19 71. Livestock grazing is generally known to negatively impact several wildlife  
20 species that inhabit the National Seashore and are listed as threatened or endangered under the  
21 federal ESA. The federal decisions to list many of these species identified livestock grazing as a  
22 contributing factor to degradation of habitat conditions or threats to these species. In 2015, the  
23 Park Service itself released a report that analyzed whether mowing fields at the Seashore for  
24 cattle silage impacts breeding birds. The report found that species abundance and richness  
25 decreased in silage fields that were mowed to support ranches at Point Reyes, and that  
26 immediately after mowing, silage fields did not appear to provide suitable nesting habitat.  
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1           72. As another example, NOAA Fisheries identified livestock grazing as a contributor  
2 to the degradation of salmonid habitat on the West Coast through overgrazing in riparian areas  
3 and soil compaction of upland areas.

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

6           74. On April 5, 2004, NOAA Fisheries issued a Biological Opinion ("BiOp") that  
7 assessed the effects of the Park Service's renewal of livestock grazing permits throughout the  
8 National Seashore and Golden Gate National Recreation Area ("GGNRA") on threatened  
9 salmonids and designated critical habitat under the ESA. NOAA Fisheries concluded that the  
10 grazing program "is likely to result in take of [Central California Coast] coho salmon, [California  
11 Coastal] Chinook salmon, and [Central California Coast] steelhead." After issuance of the BiOp,  
12 monitoring showed that endangered coho salmon declined during four consecutive seasons  
13 through 2011.

14           75. On September 25, 2002, the U.S. Fish & Wildlife Service ("USFWS") issued a  
15 BiOp on the effects of the Park Service's renewal of grazing permits within the National  
16 Seashore and GGNRA on the endangered and threatened species, and designated critical habitat  
17 under the ESA. USFWS concluded that the grazing program was likely to adversely affect the  
18 Pacific Coast population of the western snowy plover and the California red-legged frog; and did  
19 not concur with the Park Service's determination the program was not likely to adversely affect  
20 the Sonoma alopecurus, Sonoma spineflower, Tiburon paintbrush, beach layia, Tidestrom's  
21 lupine, northern spotted owl, and Myrtle's silverspot butterfly. Ultimately, USFWS anticipated  
22 grazing to "take" California red-legged frogs, western snowy plover, and Myrtle's silverspot  
23 butterflies.  
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1           76. In 2015, the Park Service also released a report on the monitoring of Residual Dry  
2 Matter (“RDM”) in areas of grazing at the Seashore. The report documented RDM  
3 measurements at several sites that were under the minimum allowable RDM level during  
4 multiple years, indicating that overgrazing at many ranches is an issue. For example, each of the  
5 last six RDM measurements between 2002 and 2014 at “N Ranch” and “Home Ranch” were  
6 below the RDM standard for grazing.

7           77. The Park Service has also found that grazing at the National Seashore causes  
8 coastal erosion. As grazing reduces vegetation abundance, and compacts and disturbs soils,  
9 erosion increases. Erosion can affect the hydrology of streams, trigger slope failures, require  
10 expensive stabilization efforts, and threaten archaeological sites.

11           78. Members of the public report that current ranching practices at the National  
12 Seashore have also impeded and impaired recreational opportunities. While the public is  
13 supposed to have access to all of the National Seashore for recreation, members of the public  
14 report that ranching interferes with their recreational and aesthetic interests and pursuits. For  
15 example, public comments submitted during the Ranch Plan scoping process (discussed below)  
16 reported recreational impairment from cattle waste, unpleasant odors and sights, mowing,  
17 reduced wildlife sightings, trail erosion, and a lack of biking opportunities.

18           79. Structures and improvements associated with some ranches also threaten the  
19 natural resources of the National Seashore. Water diversions such as dams located on some  
20 ranches impair water resources and fish species by interfering with natural stream function and  
21 fish passage. In its Watershed Assessment, the Park Service reported that two dams at the Home  
22 Ranch and Kehoe Ranch are in poor condition; and that the Home Ranch dam “poses a  
23 significant downstream hazard due to its proximity to recreational areas.”  
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1           80.     The Park Service also has identified ranch roads as a maintenance issue. Large  
2 bulk milk trucks traverse the narrow and windy Sir Francis Drake Boulevard to collect milk from  
3 dairies at the National Seashore on a daily basis. This likely contributes to pavement degradation,  
4 road construction repairs, traffic, and emissions. The agency reports that sections of this road “in  
5 the vicinity of the ranches exhibit some of the highest pavement distress, as well as highest  
6 frequency of patching and pavement overlays.”

7  
8           81.     On information and belief, the Park Service also allows ranching to continue even  
9 though some ranchers are not in compliance with the terms and conditions of their ranching  
10 authorizations. For example, decomposing cow carcasses have been found at the National  
11 Seashore despite the typical authorization requirement that such carcasses be promptly removed  
12 by ranchers.

13           82.     Despite these known and potential adverse impacts, the Park Service continues to  
14 use taxpayer dollars to allow these private, commercial enterprises to operate on the public lands  
15 of the National Seashore without conducting a NEPA compliant EIS, and without preparing an  
16 up-to-date GMP that considers alternative, public uses of the Seashore’s natural resources, as  
17 required by law.  
18

### 19           **Tule Elk Re-Introduction and Deaths**

20           83.     Tule elk are a majestic animal endemic to California. For centuries, tule elk freely  
21 roamed the Point Reyes Peninsula until they were extirpated from the area by the mid-nineteenth  
22 century, due to uncontrolled hunting and eviction from their habitat for livestock ranching. Tule  
23 elk were thought to be extinct, though a single small herd were kept alive by a conservation  
24 minded rancher Henry Miller who found them on his ranch near Bakersfield in the mid 1870s.  
25

26           84.     In 1976, Congress declared “the protection and maintenance of California’s tule  
27 elk in a free and wild state is of educational, scientific, and esthetic value to the people of the  
28

1 United States” and thus the “restoration and conservation of a tule elk population in California of  
2 at least two thousand . . . is an appropriate national goal.” 16 U.S.C. § 673d; Pub. L. No. 94-389,  
3 90 Stat. 1189 (1976). Congress thus required the Secretary of the Interior to “develop a plan for  
4 Tule elk restoration and conservation, including habitat management” in coordination with other  
5 governments with jurisdiction over existing or suitable Tule elk habitat. 16 U.S.C. § 673g.  
6 Congress required the Secretary of the Interior to make land under her jurisdiction “reasonably  
7 available for the preservation and grazing of Tule elk . . .” 16 U.S.C. § 673e.  
8

9 85. In 1978, the California Department of Fish and Wildlife took ten tule elk from an  
10 existing herd in the San Luis National Wildlife refuge and placed them in a small, 2600 acre  
11 preserve at the northern end of the Seashore – called Tomales Point. To segregate the elk from  
12 adjacent dairy ranches, the agency erected a three-mile long fence across the peninsula from the  
13 Pacific Ocean to Tomales Point. Initially, the population at Tomales Point failed to thrive. But,  
14 after a few remaining cattle were removed from the preserve, the elk population increased  
15 rapidly. The tule elk herd there grew into one of the largest populations in California. By 1998  
16 this remarkable comeback of a wild and majestic species endemic to the Seashore was heralded  
17 by the Park Service as a stunning success. *Tule Elk; The Return of a Species*, National Park  
18 Service, 1998 ([https://www.nps.gov/pore/planyourvisit/upload/resourcepaper\\_tuleelk.pdf](https://www.nps.gov/pore/planyourvisit/upload/resourcepaper_tuleelk.pdf)).  
19

20 86. In 1998, the Park Service issued a Tule Elk Management Plan and Environmental  
21 Assessment (“1998 Tule Elk Plan”) to consider different management alternatives. Goals  
22 established included maintaining viable populations of the species, using minimal intrusion, and  
23 providing for a free-ranging elk herd. Several management options were rejected as inhumane  
24 and irresponsible, including sterilization, hunting, or removal of the elk.  
25

26 87. The Park Service has cited the re-introduction of tule elk at the National Seashore  
27 as an example of successful restoration of dominant native herbivores within the coastal  
28

1 ecosystem; the tule elk “symbolize the conservation of native species and ecosystem processes,  
2 one of the primary missions of the National Park Service.” The National Seashore is the only  
3 National Park System site where tule elk can be seen, and their presence at the National Seashore  
4 “is treasured by visitors, photographers, naturalists, and locals alike.”

5 88. Numerous members of the public who submitted comments during the scoping  
6 process for the Ranch Plan (discussed below) urged the Park Service to protect the tule elk,  
7 remove the Tomales Point fence, and allow elk populations to return to their natural habitat  
8 throughout the Pastoral Zone, which was given over to commercial ranching in the 1980 GMP.  
9

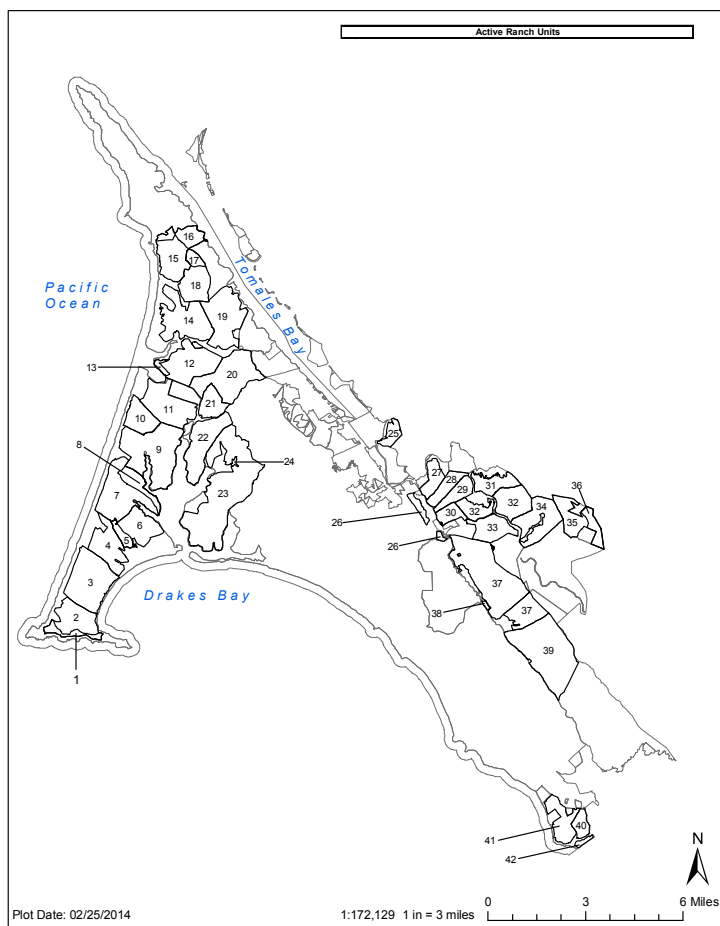
10 89. In its 1998 Assessment, the Park Service noted that Tomales Point has no natural  
11 year-round streams for elk and that the herd restricted to Tomales Point could suffer from  
12 starvation and a population crash due to inadequate vegetation. What was predicted came to pass  
13 during the drought of 2013-2014, when roughly half the herd died from the lack of adequate  
14 water and forage, while not one dairy cow on the other side of the fence was reported to have  
15 suffered the same fate. The Tomales Point fence prevented tule elk from roaming to other areas  
16 of the National Seashore to find water and forage, and does so to this day.  
17

18 90. Ranchers’ barbed wire fences also harm and kill tule elk at the National Seashore.  
19 Tule elk cannot measure the height of a barbed wire fence, and when they try to jump them, their  
20 feet or legs can become entrapped in the wire, as can their heads, their antlers, or other parts of  
21 their bodies. Despite these threats to endemic tule elk, ranchers have been demanding that the  
22 Park Service, which is paid by the public, should take actions previously deemed inhumane and  
23 irresponsible to protect cattle ranches from tule elk. As described below, the Park Service has  
24 been doing just that, and it is considering more such measures for future elk management in a  
25 Comprehensive Ranch Management Plan, the objective of which is to pave the way for new  
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1 commercial ranching leases with up to 20-year terms. Given the purposes of the Point Reyes Act  
2 and the Organic Act, these actions are very disconcerting.

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

4 91. The Park Service authorizes livestock ranching on the Point Reyes National  
5 Seashore on twenty-five active ranch units. These ranch units comprise roughly eighteen  
6 thousand acres as depicted in the following map<sup>2</sup>:



23

24

25

26 <sup>2</sup> This map also depicts ranch units on Golden Gate National Recreation Area, which is located  
27 to the east of Point Reyes and the southeast Tomales Bay. Although the Park Service  
28 collectively manages ranching at Point Reyes National Seashore and the Northern District of  
Golden Gate National Recreation Area, Plaintiffs neither challenge nor address ranching  
authorizations at Golden Gate National Recreational Area through this Complaint.

1           92.     These active ranch units are public lands owned by the federal government that  
2 were acquired by paying millions of dollars of taxpayer money to private landowners to create  
3 the National Seashore.

4           93.     The Park Service authorizes livestock ranching on these units through agricultural  
5 leases/permits, special use permits, and letters of authorization (collectively “ranching  
6 authorizations”). Nearly all of the ranching authorizations have been issued for dairy or beef  
7 ranches that include cattle grazing, although the Park Service also has authorized a chicken  
8 operation and a horse and vegetable farm. Attached as Attachment A and incorporated by this  
9 reference is a list of the Park Service’s ranching authorizations that, on information and belief,  
10 are currently in effect at Point Reyes as of the date of filing this First Amended Complaint.  
11

12           94.     Such ranching authorizations are needed to continue ranching at the Seashore,  
13 because the ranchers’ long-term leases and permits issued during the last century, and the few  
14 elective reservations of use and occupancy rights, have all expired with the exception of perhaps  
15 one reservation which will expire soon.  
16

17           95.     Under the short-term ranching authorizations ranchers and their employees  
18 typically may reside on the ranches. The authorizations generally set some environmental and  
19 range management standards, prohibit harm to wildlife, require removal of livestock carcasses,  
20 and allow for public access on rangeland.

21           96.     Before issuing or renewing authorizations for livestock grazing on federal public  
22 lands, the Park Service by law must comply with the National Environmental Policy Act  
23 (“NEPA”) by preparing an environmental impact statement (“EIS”), or if the impacts will be  
24 insubstantial, an environmental assessment (“EA”). *See* 42 U.S.C. § 4332(2)(C); *see* 40 C.F.R. §  
25 1500.1(a); *see, e.g., Natural Resources Defense Council, Inc. v. Morton*, 388 F. Supp. 829, 834  
26 (D.D.C. 1974) (“Grazing clearly may have a severe impact on local environments.”), *aff’d*  
27  
28

1 *without opinion*, 527 F.2d 1386 (D.C. Cir. 1976). NEPA “require[s] that agencies take a hard  
2 look at environmental consequences” of their actions and “provide for broad dissemination of  
3 relevant environmental information.” *Robertson v. Methow Valley Citizens Council*, 490 U.S.  
4 332, 350 (1989) (quotations omitted). Such procedures ensure “that environmental information  
5 is available to public officials and citizens before decisions are made and before actions are  
6 taken.” 40 C.F.R. § 1500.1(b).

7  
8 97. On information and belief, the Park Service did not comply with NEPA before  
9 issuing any of the current ranching authorizations for the active ranch units identified in  
10 Attachment A. On information and belief, the Park Service also has occasionally prepared  
11 “categorical exclusion” forms for the Seashore ranching authorizations.

#### 12 **Interior and Park Service Ranching Directives**

13 98. On November 29, 2012, then-Secretary of the Interior Ken Salazar issued a  
14 memorandum to the Director of the National Park Service announcing his decision not to renew  
15 an about-to-expire lease issued to the Drakes Bay Oyster Company for an oyster farm on 3.1  
16 onshore acres and 1,050 offshore acres of Seashore lands, based on an EIS. Out of the blue, with  
17 no public notice or input, and without a GMP or an EIS, Secretary Salazar—a cattle rancher  
18 himself—directed in his oyster farm decision that the Park Service should pursue extending  
19 leases with terms of up to twenty years for commercial ranching on 18,000 acres of public  
20 Seashore lands. (“2012 Memorandum”). He directed the Superintendent of the National  
21 Seashore to work with the ranchers to reaffirm his intention that “the role of ranching be  
22 maintained,” because in his opinion “[t]hese working ranches are a vibrant and compatible part  
23 of Point Reyes National Seashore, and both now and in the future represent an important  
24 contribution to Point Reyes’ superlative natural and cultural resources.”  
25  
26  
27  
28



1           99. In a follow-up letter from the Park Service Director Jonathan Jarvis to the  
2 Regional Director dated January 31, 2013 (“2013 Letter”), Director Jarvis delegated the authority  
3 to issue ranching permits with terms of up to twenty years and directed the park superintendent  
4 to review the permit structure to serve the interests of the ranchers “while meeting [the Park  
5 Service’s] responsibilities to protect natural and cultural resources.” The Director opined that  
6 twenty-year permits would provide “greater certainty for the ranches” and “demonstrate the  
7 support of the National Park Service [] and the Department of the Interior for the continued  
8 presence of dairy and beef ranching operations.” The 2013 Letter further advised that the  
9 agricultural leases/permits are not subject to leasing authority under 16 U.S.C. 1a-2(k) nor 36  
10 C.F.R. Part 18.

#### 12           **Ranch Management Plan**

13           100. On April 21, 2014, the Park Service initiated a process to prepare a Ranch  
14 Comprehensive Management Plan/Environmental Assessment (“Ranch Plan”) for approximately  
15 28,000 acres of ranch lands, including 18,000 acres within the National Seashore. In a press  
16 release that day, Defendant Superintendent Muldoon remarked:  
17

18           Ranching is integral to our history and to our future here at Point Reyes National  
19 Seashore. . . . For more than 50 years, ranchers and the park have been working together.  
20 This plan is an opportunity to build on that past, address current issues, and strengthen  
21 our shared stewardship of these lands. This plan will set a strong foundation for ranching  
22 now and into the future.

23           101. The agency has explained that the purpose of the Ranch Plan is “to establish a  
24 comprehensive framework for the management of existing ranch lands administered by Point  
25 Reyes National Seashore under agricultural lease/special use permits (lease/permits), with terms  
26 up to 20 years.” Its stated purpose is, *inter alia*:

- 27           • To articulate a clear vision for ranching on existing ranch lands administered by Point  
28 Reyes National Seashore.

1 • To implement the Secretary of the Interior’s direction to pursue issuance of  
lease/permits with terms up to 20 years.

2 • To address concerns related to tule elk impacts to existing ranch operations.

3  
4 102. The tule elk management techniques being considered to protect cattle from elk in  
5 the Ranch Plan include some of the very practices rejected as being inhumane and irresponsible  
6 in the Park Service’s 1998 Tule Elk Assessment: forced sterilization, lethal removal, more  
7 fencing, hazing, and even removal from the Seashore to which they were just successfully  
8 reintroduced, and are now a primary visitor attraction. At one point, the agency announced to  
9 the public that it would release a draft Ranch Plan during the spring or summer 2015, and the  
10 final decision document and response to comments during the fall of 2015. The Park Service  
11 now anticipates that it will release an environmental assessment for public review and comment  
12 and complete the planning process in late 2016 or in January of 2017.

13  
14 **FIRST CLAIM FOR RELIEF:**  
15 **APA Violation For Agency Action Unlawfully Withheld /Unreasonably Delayed**  
16 **In Revising General Management Plan**

17 103. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

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

23 105. The Court has jurisdiction and authority to review this claim and provide relief to  
24 Plaintiffs pursuant to the Administrative Procedure Act, which directs that a “reviewing court  
25 shall – (1) compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. §  
26 706(1).  
27  
28

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

9           107. The Park Service has violated the statutory command of the NPS Act and ignored  
10 its own policies and findings by failing for thirty-six years to prepare a new or revised GMP/EIS  
11 for the Point Reyes National Seashore.

12           108. As discussed above, the Park Service has itself repeatedly recognized that the  
13 1980 GMP for the Point Reyes National Seashore is badly outdated and inadequate to address  
14 the issues facing the Seashore since 1980, and in light of the significantly changed conditions  
15 since that time. Although the Park Service acknowledged the need for a new GMP/EIS around  
16 1998, and spent eight years preparing one between 2000-2008, it has failed to release for public  
17 review and comment the draft GMP/EIS that was ready to be printed around 2009 and it has  
18 ceased to update the public as to its GMP/EIS plans since the summer of 2008. In the meantime,  
19 the Park Service has been devoting scarce public resources to the completion of an RMP and an  
20 EA, instead of an EIS, designed to lead to the issuance of up to 20 year leases for commercial  
21 cattle ranching.  
22

23           109. Defendants’ refusal and failure to release a current and valid General  
24 Management Plan and an EIS for the Point Reyes National Seashore represents agency action  
25 “unlawfully withheld or unreasonably delayed” under the APA, the NPS Act, the Park Service’s  
26 implementing policies, and the facts presented, justifying the relief requested from the Court.  
27  
28

1 110. Defendants' refusal to adopt a current and valid General Management Plan is  
2 further unlawful and unreasonable in light of the fact that the Park Service is now proceeding  
3 with the Ranch Plan in order to implement former Interior Secretary Salazar's decree that it  
4 should issue new commercial ranching leases for up to twenty-year terms, thereby avoiding  
5 public debate on the basis of an EIS and alternative planning strategies as to whether commercial  
6 ranching should continue on the publicly owned lands of the National Seashore, and if so, of  
7 what kind and to what extent, and at what cost to the Seashore's natural resources, like the tule  
8 elk. By preparing a Ranch Plan and issuing new leases that will lock in ranching practices for  
9 the long-term *before* issuing a new GMP and EIS, Defendants are unlawfully prioritizing  
10 ranching above other uses of the National Seashore, and the ranchers who make investment,  
11 estate planning and other decisions based upon the Ranch Plan and long-term leases will insist  
12 that their new rights must be honored in any future GMP. The issuance of a Ranch Plan and  
13 twenty-year ranching leases not only will consume public resources that should be devoted to a  
14 long overdue GMP and EIS, but will prevent the agency from alternative management options  
15 for the lands that were agricultural when they were acquired that focus on natural resource  
16 conservation and opportunities for public use by the many more visitors that the Seashore now  
17 attracts. A GMP/EIS prepared *after* issuance of the Ranch Plan and long-term leases will be  
18 untimely, because the agency will be unable to follow its policies that require it to evaluate the  
19 National Seashore's role, resources conditions, uses, and visitor experiences in light of the  
20 purposes for which the Seashore was created and the non-impairment mandate.  
21  
22  
23

24 111. Thus, the Court should issue declaratory, injunctive and/or other relief pursuant to  
25 the NPS Act and APA Section 706(1) ordering Defendants to adopt a lawful, updated, and valid  
26 General Management Plan with an accompanying EIS for the Point Reyes National Seashore on  
27  
28

1 a reasonably expedited schedule, before Defendants may complete the Ranch Plan and issue  
2 new, long-term commercial ranching leases.

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

4 **SECOND CLAIM FOR RELIEF:**  
5 **Current Ranching Authorizations Violate NEPA and APA**

6 112. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

7 113. This Second Claim For Relief challenges the Defendants' issuance of current  
8 ranching authorizations that are listed in Attachment A on the Point Reyes National Seashore in  
9 violation of NEPA, 42 U.S.C. § 4321 *et seq.*, and NEPA's implementing regulations. This  
10 Second Claim for Relief is brought under the APA's provisions for judicial review of final  
11 agency actions, 5 U.S.C. §§ 701 - 706(2).

12 114. As discussed above, the Park Service has issued ranching authorizations, which  
13 include agricultural leases/permits, special use permits, and letters of authorization that authorize  
14 livestock grazing upon the Point Reyes National Seashore over the past six years without  
15 preparing any evaluation of potential environmental impacts or alternatives, as required by  
16 NEPA.

17 115. Current ranching practices and activities upon the Point Reyes National Seashore  
18 pose significant adverse environmental impacts, and Defendants' ranching authorizations  
19 constitute major federal action(s) significantly affecting the environment, thus requiring  
20 compliance with NEPA.

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

24 117. Defendants' violations of NEPA in issuing the current ranching authorizations  
25 listed in Attachment A for the Point Reyes National Seashore are final agency actions subject to  
26

1 judicial review under 5 U.S.C. §§ 706(2)(A) & (D), which must be reversed and set aside  
2 because the ranching authorizations were issued without the procedures required by law and are  
3 arbitrary, capricious, an abuse of discretion, and/or contrary to law.

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

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

8 118. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs.

9 119. This Third Claim for Relief challenges Defendants' issuance of current ranching  
10 authorizations that are listed in Attachment A upon the Point Reyes National Seashore without  
11 ensuring that such authorizations comply with the Point Reyes Act, 16 U.S.C. § 459c *et seq.*, and  
12 the NPS Act, 54 U.S.C. § 100101 *et seq.*, and by failing to make a determination that livestock  
13 ranching will not adversely impact, *inter alia*, the environment and natural resources, as required  
14 under the Park Service's regulations, 36 C.F.R. § 1.6. This Third Claim for Relief is brought  
15 under the APA's provisions for judicial review of final agency actions, 5 U.S.C. §§ 701 - 706(2).

16 120. The Point Reyes Act requires the Park Service to administer the National  
17 Seashore "without impairment of its natural values, in a manner which provides for such  
18 recreational, educational, historic preservation, interpretation, and scientific research  
19 opportunities as are consistent with, based upon, and supportive of the maximum protection,  
20 restoration, and preservation of the natural environment within the area," unless otherwise  
21 provided. 16 U.S.C. § 459c-6(a). Further, leases issued under the Point Reyes Act must be  
22 "subject to such restrictive covenants as may be necessary to carry out the purposes of" the Act.  
23 16 U.S.C. § 459c-5(a).

24 121. The NPS Act requires the agency to regulate the use of the National Seashore to  
25 conserve the scenery, wildlife, and other natural resources, to provide for the public's enjoyment  
26  
27  
28

1 of such resources, and to leave such resources “unimpaired for the enjoyment of future  
2 generations” by prohibiting uses that cause “unacceptable impacts.” 54 U.S.C. § 100101(a)  
3 (previous version at 16 U.S.C. § 1); 2006 NPS Management Policies, §§ 1.4.3.1, 1.4.7.1. The  
4 NPS Act allows the Park Service to authorize livestock grazing when such “use is not  
5 detrimental to the primary purpose for which” the National Seashore was created. 54 U.S.C. §  
6 102101(a)(2) (previous version at 16 U.S.C. § 3).

7  
8 122. Consistent with these obligations, the Park Service’s regulation that governs its  
9 issuance of permits for uses such as livestock grazing requires that such permits be consistent  
10 with other federal laws, and “based upon a determination that public health and safety,  
11 environmental or scenic values, natural or cultural resources, scientific research, implementation  
12 of management responsibilities, proper allocation and use of facilities, or the avoidance of  
13 conflict among visitor use activities will not be adversely impacted.” 36 C.F.R. § 1.6(a).

14  
15 123. The Park Service’s reports and other data indicate that livestock ranching  
16 authorized at the National Seashore impairs or threatens to impair natural values, resources,  
17 public recreation, wildlife, and other purposes for which the National Seashore was created.

18  
19 124. Despite such evidence, the agency has never conducted a comprehensive  
20 assessment of the impacts of livestock ranching nor prepared a comprehensive management plan  
21 that analyzes and determines whether and how current operations may be authorized in  
22 compliance with the Point Reyes Act, the NPS Act, and the agency’s regulations.

23  
24 125. In the absence of such assessments and determinations for each ranching  
25 authorization, the Park Service has failed to ensure that livestock ranching authorizations do not  
26 impair natural values, are consistent with the maximum protection, restoration, and preservation  
27 of the natural environment, and include the restrictive covenants necessary to carry out the  
28 purposes of the act, which include preserving recreation. 16 U.S.C. §§ 459c, 459c-5(a), 459c-

1 6(a). Further, the Park Service has failed to make the determination required under 36 C.F.R. §  
2 1.6 before issuing such authorizations.

3 126. Defendants' current ranching authorizations that are listed in Attachment A for  
4 the Point Reyes National Seashore are final agency actions subject to judicial review under 5  
5 U.S.C. §§ 706(2)(A) & (D), which must be reversed and set aside because the authorizations  
6 were issued without procedures required by law and are arbitrary, capricious, an abuse of  
7 discretion, and/or contrary to law.  
8

9 **REQUEST FOR RELIEF**

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

11 A. Order, declare, and adjudge that Defendants' failure or refusal to complete a new  
12 or revised General Management Plan with an accompanying EIS for the Point Reyes National  
13 Seashore constitutes agency action unlawfully withheld or unreasonably delayed under the APA,  
14 the NPS Act, and other applicable authorities;

15 B. Order Defendants to adopt a lawful, updated, and valid General Management Plan  
16 with an accompanying EIS for the Point Reyes National Seashore on a reasonably expedited  
17 schedule, before Defendants continue their Ranch Plan and issue long-term leases for  
18 commercial ranching;

19 C. Order, declare, and adjudge that Defendants have violated NEPA and the APA in  
20 issuing current ranching authorizations for the Point Reyes National Seashore;

21 D. Order, declare, and adjudge that Defendants have violated the Point Reyes Act,  
22 the NPS Act, 36 C.F.R. § 1.6(a), and the APA in issuing current ranching authorizations for the  
23 Point Reyes National Seashore;

24 E. Vacate and set aside the unlawful agency decisions challenged herein;  
25  
26  
27  
28



1 F. Order Defendants to comply with NEPA, the Point Reyes Act, the NPS Act, and  
2 the agency’s regulations, before issuing new commercial ranching authorizations or long-term  
3 leases or permits for commercial ranching within the Point Reyes National Seashore;

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

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

9 I. Grant such further relief as the Court deems necessary or appropriate to redress  
10 the Defendants’ legal violations and protect the Point Reyes National Seashore and the natural  
11 resources and public lands within.  
12

13 Dated: August 5, 2016

14 KEKER & VAN NEST LLP

15 By: /s/ Jeffrey R. Chanin  
16 JEFFREY R. CHANIN  
DAVID RIZK

17 /s/ Elizabeth H. Zultoski  
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