

[The Truth About Permits](#)

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An Egregious Record of Outrageous Accusations

By Sarah Rolph

In a front-page story in the West Marin Citizen two weeks ago ("Water watchdog to sue oyster company," July 18, 2013) Amy Trainer, executive director of the Environmental Action Committee of West Marin (EAC), is quoted as saying Drakes Bay Oyster Company "...has an egregious record of non-compliance with state and federal environmental and coastal protection laws..."

Trainer claimed: "The Drakes Bay Oyster Company has failed to get the required permits and authorization from the Army Corps of Engineers, the California Coastal Commission, the National Park Service, and now from the Environmental Protection Agency."

These statements are false and misleading.

Drakes Bay Oyster Company (DBOC) has a valid permit from the National Park Service. The stay that was granted by the 9th Circuit means that the Special Use Permit and the Reservation of Use agreements are still in force; for legal purposes, the stay, in effect, stopped time. In addition, DBOC has explicit, written authorization from NPS to continue doing business under the 9th Circuit decision; there should be no confusion whatsoever about compliance with NPS.

The permit required from the California Coastal Commission was held up by the Commission itself pending the finalization of the NPS EIS. Although NPS did publish what it calls an FEIS (final environmental impact statement), that document has never been finalized (there is no Record of Decision; the document was never filed with authorities as required by law). The Commission has now changed its story, but the fact remains that all necessary paperwork for the Coastal Commission permit was filed long ago.

The Army Corps of Engineers recently finalized a nationwide permitting process that calls for blanket permits of all shellfish operations in a given area. This nationwide process was applied first on the East coast, and then in Washington State. The Corps has not yet begun implementation of this permit process in California. When it does, DBOC will be among the first to be covered, and the Lunnys are already in discussion with the Army Corps about this permit process.

No permit is required from the EPA.

In 2007, the EAC falsely accused DBOC of unpermitted discharge of pollutants in a letter to the Regional Water Quality Control Board. The board inspected DBOC, found no discharge of pollutants, and further found that the DBOC did not require any permit. There is no issue with water quality. (California River Watch, the so-called "watchdog" that is suing the Lunnys for a non-issue with water, is well known for this type of shakedown suit, and has no credibility among knowledgeable environmentalists.)

The oyster farm is also monitored by the California Department of Public Health, and is in compliance with the CDPH Drakes Estero Management Plan, Shellfish Shipping and Handling Permit and the CDPH septic system monitoring agreement.

DBOC also has a Small Community Water System permit —the same level of regulation as a public water system. DBOC provides weekly water samples for this permit, and is in full compliance.

The oyster farm is also monitored by the FDA and the CDPH, in accordance with the Interstate Shipping Shellfish Conference, and is in full compliance.

In short, there is no record of non-compliance here, “egregious” or otherwise. Ms. Trainer’s statements are libelous. She owes the Lunnys, and the community, an apology. The West Marin Citizen should cease quoting Ms. Trainer on the topic of DBOC unless she can provide evidence for her outrageous accusations.