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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

20 TOMALES BAY OYSTER COMPANY *et al.*

21 Plaintiffs,

22 v.

23 UNITED STATE DEPARTMENT OF THE
 24 INTERIOR, *et al.*

25 Defendants.

Case No. 3:14-cv-03246 YGR

**STIPULATION AND [PROPOSED]
 ORDER RE: BRIEFING SCHEDULE**

Court: Hon. Yvonne Gonzalez Rogers,
 Oakland Courthouse 5 – 2nd Floor

1 Plaintiffs Tomales Bay Oyster Company, *et al.* (“Plaintiffs”) and Defendants United
2 States Department of the Interior, *et al.* (“Defendants”), having conferred through undersigned
3 counsel, now hereby state as follows:

4 I. RECITALS

5 A. WHEREAS Plaintiffs filed their Complaint in the above-captioned action on July
6 17, 2014 (Doc. #1) and concurrently moved for a Temporary Restraining Order and Preliminary
7 Injunction (Doc. # 3) seeking to enjoin Defendants from closing Drakes Bay Oyster Company’s
8 (“DBOC”) operations on July 31, 2014;

9 B. WHEREAS DBOC has publicly stated that it will close its retail and canning
10 operations at Point Reyes National Seashore by July 31, 2014;

11 C. WHEREAS DBOC, through its attorneys, and Defendants are engaged in
12 confidential settlement discussions, and have made the district court in *Drakes Bay Oyster Co. v.*
13 *Jewell*, Case No. 12-cv-06134 YGR (“*DBOC v. Jewell*”), aware of those discussions. The
14 district court in *DBOC v. Jewell* has referred the parties in that lawsuit to Magistrate-Judge Donna
15 M. Ryu, who in turn has scheduled a settlement conference for August 8, 2014. A further Case
16 Management Conference in *DBOC v. Jewell* has been scheduled for August 11, 2014; and

17 D. WHEREAS Defendants will provide thirty (30) days advance notice to the
18 Plaintiffs, to DBOC, and to the court in the above-captioned case before DBOC must cease
19 activities in Drakes Estero and remove property offshore and Defendants remove onshore
20 property currently used by DBOC to harvest oysters from Drakes Estero.

21 II. STIPULATION

22 The Parties thus stipulate, subject to the Court’s approval, to the following:

23 1. Plaintiffs hereby withdraw their *Application and Motion for a Temporary*
24 *Restraining Order and Preliminary Injunction*, filed July 17, 2014 (Doc. # 3) in the above-
25 captioned action.

26 2. Plaintiffs intend to file a Motion for Preliminary Injunction in the above-captioned
27 action on or before July 31, 2014. In the event such a motion is filed, Defendants shall file their
28

1 Opposition on or before August 26, 2014; Plaintiffs shall file their Reply on or before September
2 2, 2014.

3 3. The Parties jointly and respectfully request that Plaintiffs' aforementioned Motion
4 be heard by the Court on September 9, 2014, or as soon thereafter as the Court's calendar permits.

5 4. In the event Defendants send a notice as described in Recital D above, the Parties
6 agree that the Plaintiffs' may seek a preliminary injunction on shortened time, and will discuss
7 adjustments to the briefing schedule accordingly.

8 Respectfully submitted this 24th day of July, 2014.

9 MELINDA HAAG
10 United States Attorney

11 MICHAEL T. PYLE
12 Assistant United States Attorney

13 SAM HIRSCH
14 Acting Assistant Attorney General

15 By: /s/ Stephen M. Macfarlane
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21 Attorneys for Federal Defendants

22 GROSS LAW

23 By: /s/ Stuart G. Gross (per authorization 7/24/14)
24 STUART G. GROSS (CA Bar #251019)

25 Attorneys for Plaintiffs

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ORDER

THE COURT APPROVES THE TERMS OF THE STIPULATION.

The Court will hear Plaintiffs’ Motion for Preliminary Injunction on

_____ at _____ in Courtroom _____.

IT IS SO ORDERED.

DATED: _____

YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on July 24, 2014, I electronically filed “Stipulation and [Proposed] Order re: Briefing Schedule” with the Clerk of Court using the ECF system, which automatically will send email notification to the attorneys of record.

/s/ Stephen M. Macfarlane
STEPHEN M. MACFARLANE