RECEIVED
2011 DEC -7 PM 12:51
POINT REYES NS

Dear Superintendant Muldoon, Dec 5, 11

Drakes Bay Oyster company is a crown jewel in the Point Reyes National Seashore. The companies stewardship of the land it occupies has been an example of what can be done to turn around a property which in past decades had gone into decay. The estero is now pristine as the oysters clean & purify the waters.

The company provides 500,000 lbs annually of locally grown & sustainable food production for visitors, locals and regions near & far. The employment it provides sustains local families which in turn sustains our schools & businesses in the community. Fees & taxes paid by the company & its employees helps to sustain our county government as well.

DBOC is one of the most culturally rich resources we have in the Park. Their promotion of ecotourism and education enriches the lives of all who visit there. I know this 1st hand since as a Bed & Breakfast proprietor, my guests come back throughly enchanted by their visits to DBOC. This company is different than any other as it is a park concession & therefore strives to truly serve our visitors in its daily operation.

Unfortunately none of the proposed alternatives are appropriate. What is **needed** is a Renewable special use permit for the Drakes Bay Oyster Co. to continue the wonderful service it provides.

Sincerely, Dona Larkin
Proprietor Abalone Inn

No other contact info given.

DATE: November 30, 2011

DEC -7 PM 12: 29
ES NS

TO: Supt . Pnt Reyes Natl Seashore

RE: Drakes Bay Oyster Farm

The DEIS disregards the very beneficial environmental and ecological impacts of the Farm's oyster cultivation: water purification, eel grass proliferation, habitat restoration and the positive carbon "footprint" of a locally grown, sustainable food source. The negative impact of this ecological loss should be properly documented by the NPS.

The legislative and planning history creating the Point Reyes Seashore relative to oyster cultivation is completely ignored by the DEIS. That history and subsequent laws and planning documents clearly state that oyster farming in Drakes Estero, and all ranching in the Seashore, will be continued in perpetuity. This must be added to the DEIS by the NPS.
I support a permanent Special Use Permit for the Drakes Bay Oyster Company.

The draft EIS (DEIS) for the continued use of the Drakes Bay Oyster Farm is inadequate and must be revised. The document is deficient for the reasons:
The positive economic impacts of the Farm are ignored. The DEIS should consider community benefits of employing its many workers, the asset value of the payroll and income to West Marin and the real economic losses to the area and California if the Farm is put out of business by the NPS

Repair this poor piece of work. It should have been unlawful to produce such a biased document.

I am story in favor of a continued Use Permit for the Drakes Bay Oyster Company.

CJM

Charles Joseph Matthews

2011 DEC -7 PM 12: 29
POINT REYES NS

DATE: 11-26-11

TO: Superintendant Point Reyes National Seashore

RE: *Drakes Bay Oyster Farm*

The legislative and planning history creating the Point Reyes Seashore relative to oyster cultivation is completely ignored by the DEIS. That history and subsequent laws and planning documents clearly state that oyster farming in Drakes Estero, and all ranching in the Seashore, will be continued in perpetuity. This must be added to the DEIS by the NPS.
I support a permanent Special Use Permit for the Drakes Bay Oyster Company.

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The DEIS must be drastically amended to reflect all of the above.

I support a continued Use Permit for the Drakes Bay Oyster Company.

Tom Matthews

Thomas A. Matthews
Matthews & Zahare

CORRESPONDENCE ID: 51025

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement (ID: 33043)

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit (ID: 43390)

* indicates required fields

City: *

Postal Code:*

First Name: Judy Middle Initial:

Last Name: TEICHMAN

Organization:

☐ Member ☐ Official Representative

Address 1:

Address 2:

Country: USA

E-mail:

☐ Keep my contact information private

Comments or Requests:

2011 DEC -7 PM 12:29
POINT REYES NS

December 5, 2011

Draft EIS DBOC SUP
c/o Superintendent, Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station
California 94956

Re: Comment on Draft EIS on Proposed SUP for the Drakes Bay Oyster Company at Point Reyes National Seashore

Pursuant to the National Environmental Protection Act, the following comment addresses errors in the February 26, 2004 Memorandum of the Field Solicitor, San Francisco Office, to then Point Reyes National Seashore Superintendent Don Neubacher. Relying on language in House Report 6002 on P.L. 94-544, the Field Solicitor wrongly advised that under the Wilderness Act, the Point Reyes Wilderness Act and National Park Service policies the National Park Service is mandated to close down the Drakes Bay Oyster Company [DBOC] when its Reservation of Use and Occupancy expires in 2012. This memorandum appears to be relied on in preparing the draft EIS despite the fact that in 2009 Congress specifically authorized the Secretary of the Interior to grant the DBOC a ten year Special Use Permit, and to grant it on the same terms as in the RUO, which includes the possibility of additional SUPs so long as DBOC has a lease from the California Department of Fish and Game to cultivate shellfish in Drakes Estero.

In his 2004 Memorandum, the Field Solicitor rightly observes that in 1976 Congress designated the submerged lands in Point Reyes National Seashore "potential wilderness" despite the DOI objecting at that time that the State's retained fishing and mineral rights precluded the submerged lands qualifying as "wilderness." However, it does not follow from this fact that Congress believed it had jurisdiction to, or that in designating the submerged lands in the Seashore "potential wilderness" Congress intended to, interfere with the State's fishing and mineral rights.

In establishing the wilderness area at the Seashore in 1976, Congress designated four areas "potential wilderness." Three were submerged lands, including Drakes Estero, granted to the United States by the California Legislature in 1965 with a reservation of fishing and mineral rights. The State has leased the submerged lands in Drakes Estero for shellfish cultivation since 1934. The Fish and Game Commission authorized a 25-year renewal of the current leases in 2004. Nevertheless, the Field Solicitor concluded that the NPS is "mandated by the Wilderness Act, the Point Reyes Wilderness Act and its Management Policies to convert potential wilderness, i.e. [the oyster farm] tract and *adjoining Estero*, to

wilderness status as soon as the non conforming use can be eliminated."[1] [Emphasis added.]

State's Fishing Rights and Congressional Action

The Field Solicitor peremptorily dismisses a September 8, 1976 letter from Assistant Secretary of the Interior John Kyle to James A. Haley, Chairman of the Committee on Interior and Insular Affairs in which Kyle said that the State's retention of fishing and mineral rights rendered the area "inconsistent with wilderness." The Solicitor dismisses Kyle's remarks saying that they were "overridden by the Congressional action" in designating the submerged lands "potential wilderness". This is very unlikely.

Certainly the California Senators who authored or co-sponsored the legislation establishing the wilderness areas in the Seashore would have been aware that the federal government did not have jurisdiction to eliminate the State's "public trust" interest in its navigable waters, which has always included the use of the waters for navigation, commerce and fishing.[2] In addition, there is nothing in the record to suggest that Congressional action was based on an interpretation of the "fishing rights" retained in the State's 1965 grant that differed from the interpretation of DOI personnel at the time.

Private Rights in Wilderness Areas.

More likely Congress and the NPS had different opinions as to what it means to designate and manage lands as "wilderness." For example, NPS Director Gary Everhardt testified during the March 1976 Senate hearings that the NPS feels "that the designation of the seashore as a natural area would be generally inconsistent with grazing and commercial oyster farm activities that are presently found at Point Reyes. . . ." In contrast, regarding the designation of a portion of the Badlands National Monument in South Dakota as "wilderness," Senate Report 94-1357 reflects that Congress assumed that there might be cattle grazing in a wilderness area and specifically said, "the Committee expects . . . that the driving of livestock will be regulated by the Secretary."

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[1] What the Field Solicitor refers to as the "tract" is onshore Drakes Estero. It is the only property subject to the 40 years Reservation of Use and Occupancy that expires in November 2012 and it is in a "pastoral zone", not in the submerged area designated "potential wilderness."

[2] The United States has only a "proprietorial interest" in the Drakes Estero tidelands, and even it is subject to rescission or modification by the State. See "Jurisdiction Over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States," Part I, p. 19, April 1956, and the review of cases, including United States Supreme Court cases, in National Audubon Society, 33 Cal.3d 419. Also see DOI Departmental Manual, Part 601: Federal Areas Within States, Chapter 1: Jurisdiction, Section 1.2 B. Office of the Solicitor, Effective Date 6/25/80.

Today, Section 6.4.6 in the NPS 2006 Management Policies appears to reflect NPS agreement that Congress intends that existing private rights, such as grazing and shellfish cultivation, cannot and should not be affected by virtue of lands being designated "wilderness. It provides:

> *Wilderness designation does not extinguish valid existing private rights (for example,* fee-simple interest, *less-than-fee-simple interest*, valid mineral operations, rights-of-way, *grazing permits*). The validity of private rights within wilderness must be determined on a case-by-case basis. Valid private rights in wilderness must be administered in keeping with the specific conditions and requirements of the valid right. [Emphasis added.]

DBOC's lease from the California Department of Fish and Game for shellfish cultivation in Drakes Estero is an "existing private right." And it is for property located in a "pastoral zone', not in a wilderness or potential wilderness area. In this context, Paragraph 11 in the RUO, which provides that the oyster farm "may" be given a Special Use Permit to continue to utilize the facilities subject to the RUO when it expires, is most accurately read an option for an SUP for the onshore facilities.

Historic Resource and Public Interest

As noted above, shellfish have been cultivated in Drakes Estero since 1934. The oyster farm is clearly part of an "historic scene" in the Seashore. In analyzing the provisions in P.L. 94-567, Senate Report 94-1357 notes that the law amended Section 6(a) of the law establishing the Seashore to require the NPS "to manage the seashore in such a manner as to provide greater resource protection." Congressional action regarding preservation of an historic cabin in the proposed Saguaro National Monument in Arizona is evidence of Congress' intent regarding preservation of historic resources even in a wilderness area much less in a "pastoral zone." In order to preserve a few nonconforming structures and activities, the NPS proposed a 10-acres non-wilderness enclave. The Committee deleted the proposed enclave and included the area in the wilderness designation ". . . with the understanding that all structures and non-conforming activities *other than the old historic cabin* will be promptly removed . . . ." [Emphasis added.] Senate Report 94-1357.

In addition, both Congress and now the NPS recognize that there are uses appropriately permitted in wilderness areas that are technically "commercial" but consistent with the "public interest." Section 4 (d) (4) of the Wilderness Act provides that the President may authorize such things as power projects, and transmission lines "and other facilities needed in the public interest," and that the grazing of livestock, which had been established prior to the date of the Wilderness Act, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary . . ."

Significance of "Potential Wilderness designation.

In support of his conclusion, the Field Solicitor relies primarily on this language in the House Report on 8002/P.L. 94-544:

> As is well established, it is the intention that those lands and waters designated as potential wilderness additions will be essentially managed as wilderness, to the extent possible, with efforts to steadily continue to remove all obstacles to the eventual conversion of these lands and waters to wilderness status. *The committee specifically noted that the utility lines, easements and rights-of-way through the Muddy Hollow Corridor should be eliminated as promptly as possible.* [Emphasis added.][3]

In relying on this quotation the Field Solicitor disregards the fact that P.L. 94-544 was either merged into or superseded by P.L. 94-567, adopted two days after P.L. 94-544. And P.L. 94-567 designated lands in 13 national park system units "wilderness," including the Seashore, thereby rendering HR 8002 moot.

Land in seven of the 13 units was designated "potential wilderness," including land in the Point Reyes National Seashore. Even though it included other language or topics specific to management of the Seashore found in the relied-upon House Report on the earlier legislation, Senate Report 94-1357 [re P.L. 94-567] did not repeat the statement that Congress intended that there be "efforts to steadily continue to remove all obstacles to the eventual conversion of these lands and waters to wilderness status." However, Senate Report 94-1357 did note, as did H.R. 8002, that:

- "The area's pastoral appearance constitutes a major contrast to the development landscape of the San Francisco bay region." [This language is specific to the Seashore.]

- Some lands designated "potential wilderness" will automatically gain full wilderness status when purchased by the Federal government. [This language is used in the discussion of other units with land designated potential wilderness as well.]

- Other lands will gain wilderness status when "certain non-conforming uses and/or structures are eliminated." [Same language used in discussion of other units as well.]

- Because of the threat of fire danger, oil spills and park visitor health and safety, "emergency activities" would require the use of "mechanized equipment" in the wilderness area. [This provision is specific to the Seashore.]

Furthermore, despite use of the "well-established" phrase, HR 8002/P.L. 94-544 seems to be the first time that "potential wilderness" was used in legislation in connection with the Wilderness Act, and there was no definition or other explanation of the significance of

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[3] It took the Seashore 23 years to underground the utility lines so the Muddy Hollow Corridor could be designated "wilderness."

"potential wilderness area" in the Public Law itself. Although it did not define the term, Public Law 94-567, which was adopted two days later, amended the Wilderness Act by adding Section 3, which provides:

> All lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.

Senate Report 94-1357, which accompanied P.L.94-567, explains Section 3:

> National Park Service wilderness proposals have embodied the concept of 'potential wilderness additions' as a category of lands which are essentially wilderness in character, but retain sufficient non-conforming structures, activities, uses or private rights so as to preclude immediate wilderness classification. It is intended that such lands will automatically be designated as wilderness by the Secretary by publication of notice to that effect in the Federal Register when the non-conforming structures, activities, uses or private rights are terminated.
>
> The Committee's retention of the potential wilderness provisions contained in the House passed measure should not be construed to be an advocacy of this classification by the Committee. Although the Committee understands the Department's rationale for this legislative classification, the Committee reserves the right to question this procedure at future wilderness hearings."

House Report language relied on as establishing Congressional intent regarding responsibilities for managing land designated "potential wilderness" in one national park system unit is not authority for interpreting Congressional intent in applying the designation to any of the seven units in a second bill, including the Seashore. Under these circumstances, the House Report language carries no weight whatsoever in interpreting Congressional intent regarding management of the potential wilderness areas in the Seashore. Indeed, it is very possible that the language on which the Field Solicitor relies was intended to establish a context to *reinforce* the requirement that followed, i.e., that the utilities and other structures in the Muddy Hollow Corridor were to be removed *post haste*.

<u>NPS Management of Potential Wilderness Areas</u>

Section 6.2.2.1 on the NPS 2006 Management Policies recognizes that some lands designated "potential wilderness" have "incompatible" as opposed to "nonconforming" conditions and that it is only "nonconforming conditions" that can be removed or eliminated:

> A wilderness study may identify lands that are surrounded by or adjacent to lands proposed for wilderness designation but that do not themselves qualify for immediate designation due to temporary nonconforming or incompatible conditions. . . . If so authorized by Congress, these potential wilderness areas will

> become designated wilderness upon the Secretary's determination . . . that they have finally met qualifications for designation by the cessation or termination of the nonconforming use.

1976 Amendments to Act Establishing the Seashore

The Senate Report also notes that House Report 13160, which became P.L. 94-567, amends the Point Reyes National Seashore Act establishing the Seashore in two respects. It establishes the Clem Miller Environmental Education Center and requires NPS "to manage the seashore in such a manner as to provide greater resource protection." The provision referenced was section 7, which amended Section 6(a) of the Seashore Act by inserting:

> 'without impairment of its natural values, *in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with*, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment with the area" [Emphasis added.]

The 1980 General Management Plan, adopted just 4 years after Drakes Estero was designated "potential wilderness," includes the oyster farm as one of the Seashore's "natural resources" in the "pastoral and estuarine areas." Under the Seashore's GMP, the oyster farm is to be managed "in a manner compatible with resource carrying capacity." Under "Cultural Resources Management," the GMP calls for Seashore management "to monitor and support productive land uses and activities which are consistent with historic patterns' and "to ensure that agricultural and maricultural activities are consistent with the historical evolution of land and water use in Point Reyes."

Conclusion

There is no basis in law or in fact for the Field Solicitor's 2004 opinion that applicable federal law and NPS Management Policies mandate, or even could mandate, that the National Park Service force termination of shellfish cultivation in Drakes Estero. To the contrary, applicable law, pertinent facts and NPS Management Policies, including the Seashore's General Management Plan, require NPS and/or the Secretary of the Interior to protect this historic and educational resource by issuing the SUP for use of the onshore facilities as requested by DBOC.

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: GRACE GAI Middle Initial: C.

Last Name: CARI

Address: [redacted]

Country: [redacted]

Email: NA

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:14

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Comment Form

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Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: RICHARD Middle Initial: S

Last Name: WOOD

Address: [redacted]

Country: [redacted]

Email: [redacted]

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:14

* indicates require[redacted]

City:* [redacted]

State/Province:* [redacted]

Postal Code:* [redacted]

Middle Initial: M.

First Name: Lillian

Last Name: Schmidt

Address: [redacted]

Country: [redacted]

Email: [redacted]

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:1[illegible]

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: Naomi

Middle Initial:

Last Name: WORTIS

Address: [redacted]

Country: [redacted]

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

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* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: Norman & Christina Middle Initial: _____

Last Name: Higashi

Address: [redacted]

Country: [redacted]

Email: [redacted]

___ (Check here if you want your contact information kept private.)

Comments or Requests: We support a renewable Special Use Permit for Drakes Bay Oyster Company

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:14

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: EUGENE Middle Initial:

Last Name: HALE

Address: [redacted]

Country:

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:*

First Name: Bobbie Middle Initial: J.

Last Name: Hale

Address: [redacted]

Country:

Email:

☑ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

Drakes Bay oyster Company has for many years been a part of our yearly visit to the Point Reyes area. We have read the pro's and con's of it being there. We see no harm that it causes to the environment. Please give this interesting place a

RECEIVED 2011 NOV 22 PM 2:14 NPS DSNG

YOUR **LAST CHANCE** TO HELP **SAVE** "DRAKES BAY OYSTER FARM"!

9455084106

renewable interest permit.

Bobbie Jene Hale registered Calif Voter

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: martha Middle Initial: m

Last Name: Jaggers

Address: [redacted]

Country: [redacted]

Email: Ø

X (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

Teresa

* indicates required fields

City:* [redacted]

State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Teresa

Middle Initial: M

Last Name: Leschinsky

Address: [redacted]

Country:

Email: ~~0~~

X (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

RECEIVED 2011 NOV 22 PM 2:14 POLICY & BUSINESS

Co

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: Rita Middle Initial: K

Last Name: Hayden

Address: [redacted]

Country:

Email:

X (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

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* indicates requi[redacted]

City:*

Postal Code:*

First Name: Carol Middle Initial: S

Last Name: Cook

Address:

Country:

Email:

X (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

Carol L. Cook 11/19/2011

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Comment Form

Park: Point Reyes National Seashore

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* indicates require[redacted]

City:* [redacted]

Postal Code:* [redacted]

First Name: Gregory Middle Initial: A

Last Name: Cook

Address: [redacted]

Country: [redacted]

Email: [redacted]

X (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

11/19/11

Comment Form

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City:* [redacted]

Postal Code:* [redacted]

First Name: Elizabeth Bourne Middle Initial: _____

Last Name: Bourne

Address: [redacted]

Country: [redacted]

Email: [redacted]

☑ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

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* indicates required fields

City:* [redacted]

Postal Code:* [redacted]

First Name: Amy Middle Initial: _____

Last Name: Morse

Address: [redacted]

Country: [redacted]

Email: [redacted]

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:13

CORRESPONDENCE ID: 51110

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Keith Middle Initial: _____

Last Name: O BRIEN

Address: [redacted]

Country: [redacted]

Email: _____

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:13

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code: [redacted]

First Name: Kathleen Middle Initial: H

Last Name: Collins

Address: [redacted]

Country: [redacted]

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

Please don't take this away from our community.

2011 NOV 22 PM 2:13
NPS

Comment Form

Park: Point Reyes National Seashore

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Jason Middle Initial: F

Last Name: Romine

Address: [redacted]

Country: [redacted]

Email: [redacted]

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:13

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* indicates requ[redacted]

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Ray Middle Initial: C

Last Name: Carlson

Address: [redacted]

Country: [redacted]

Email: [redacted]

x (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: MARIO Middle Initial: J.

Last Name: MAIELLO

Address: [redacted]

Country: [redacted]

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

THROUGHOUT THE WEST & EAST COAST OF AMERICA ARE MANY INDIAN MIDDEN SITES MADE UP OF LAYERS OF OYSTER SHELLS. FOR

2011 NOV 22 PM 2:15 POINT REYES NS

YOUR **LAST CHANCE** TO HELP **SAVE** "DRAKES BAY OYSTER FARM"!

9496081427

THOUSANDS OF YEARS, NATIVES OF THIS COUNTRY WERE SUSTAINED BY THIS SHELL FISH, AS EVIDENCED BY THE MIDDEN PILES THROUGHOUT TOMALES BAY, SAN PABLO BAY, SAN FRANCISCO BAY, ALL THROUGHOUT MARIN, SONOMA etc., ON THE COASTS & IN THE BAYS, SEEMS NATURAL.

REGRETFULLY we will leave far more GARBAGE THAN OYSTER SHELLS.

AT LEAST "DRAKES BAY OYSTER FARM" TRIES TO DO WHAT IS RIGHT, AND WILL KEEP ON IMPROVING WITH TIME.

THANK YOU

Marie Waite

* indicates requ[redacted]

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: GARY Middle Initial: R

Last Name: SCHMIDT

Address: [redacted]

Country:

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:14

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: MARGARETTA Middle Initial: M.

Last Name: LOVELL

Address: [redacted]

Country:

Email: —

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

2011 NOV 22 PM 2:16

CORRESPONDENCE ID:
51237

University of California
Agriculture and Natural Resources

Cooperative Extension, Marin County

1682 Novato Blvd., Suite 150B
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2011 DEC -8 PM 2:08
POINT REYES NS

December 7, 2011

Point Reyes National Seashore, Attention: Superintendent, DBOC SUP DEIS
1 Bear Valley Road, Point Reyes Station, CA 94956.

Dear Superintendent Muldoon,

As co-authors of the 2009 report *"The Changing Role of Agriculture in Point Reyes National Seashore"* we respectfully submit the following comments regarding the Drakes Bay Oyster Company (DBOC) Draft EIS (DEIS).

The Changing Role of Agriculture in Point Reyes National Seashore provides background information about the cultural, economic, and ecological values that agriculture provides to Point Reyes National Seashore (PRNS) and the Northern District of the Golden Gate National Recreation Area (GGNRA). It was prepared in anticipation of what we believed would be the new PRNS general management plan (GMP), which has still not been released for public review.

Regarding current county and state policies in support of agriculture

The DEIS ignores the fact that current county, regional and state policies, including those contained in the Marin Countywide Plan (County of Marin 2007) and Local Coastal Program (County of Marin 1980) support the continued existence and viability of aquaculture[1] and agriculture at PRNS and GGNRA. The future of agriculture on PRNS lands is an issue that strongly affects the very nature of Marin County. The Marin Countywide Plan's goals, policies and programs support the tenet that continuing a strong agricultural presence on PRNS lands is critical to Marin County agriculture as a whole. In fact, enhancing local agriculture, rather than simply protecting or maintaining it is the basis for many of the Countywide Plan policies.

Please address the fact that closure of DBOC would be in direct conflict with Marin County and State policies that seek to protect local agriculture.

[1] Aquaculture or farming in water is the aquatic equivalent of agriculture or farming on land. USDA FAO

Regarding the values and purposes for PRNS establishment

Agriculture at PRNS and GGNRA[2] represents 17% of Marin's overall agricultural production and 17% of its agricultural land base and forms the cultural foundation for the look and sense of place of PRNS and GGNRA gateway communities such as Point Reyes Station, Olema and Bolinas (Rilla and Bush 2009). Agriculture at PRNS and GGNRA also provides essential ecosystem services. It helps maintain the complex vegetation mosaic found there, including its open grasslands, inhabited by many endangered plants and animals, while helping to manage fire fuels that would otherwise present a significant wildfire threat to surrounding communities. Cessation of the DBOC lease, and creation of wilderness status threatens the surrounding ranches, and in turn, a sizeable percentage of local agriculture. Nowhere in the DEIS is the potential effect that closure of DBOC could have on surrounding ranches discussed, although this topic was brought up during the public scoping period.

The values and purposes for which the Seashore was created, which include preserving the gateway communities, its rural heritage, historic landscapes and scenic vistas are disregarded in this DEIS. In Chapter 3 the dismissal of cultural resources from further analysis as an impact topic is incongruous. While the State Historic Preservation Officer concurs with NPS that the DBOC buildings may not be eligible for National Register (NR) listing there is strong cultural and historic significance worthy of discussion in the DEIS. Further reading of the background report prepared for NR status states that

> "When considering only historical significance, Johnson Oyster Company facility would be eligible for listing under National Register Criterion A, with a period of significance of from 1957, when Charles W. Johnson assumed control of the Schooner Bay plant and the state oyster allotment, to about 1965, when his company successfully adapted Japanese off-bottom growing methods to the specific conditions of Drakes Estero. The area of significance would be Maritime History. However, despite the property's association with significant historic events, it is ineligible for listing in the NRHP because it lacks historic integrity. Of the seven aspects of integrity (location, setting, materials, workmanship, design, feeling and association), for the most part, the property retains integrity of location, setting, and association."

The DEIS should describe these aspects and not simply what is lacking regarding the workmanship and condition of the buildings. It should also describe the interpretive opportunities related to the region.

Please address the fact that agriculture, including aquaculture is important to the values and purposes for which the PRNS was created and that DBOC has significant cultural relevance although the buildings may not qualify for listing in the NRHP.

Regarding farm employment impacts

In Marin over 50% of the farms and ranches report hiring farm labor, with 542 workers employed by producers with both part-time and full-time employees. Over $7 million is spent on on-farm employee payroll (USDA NASS 2007). A significant percentage of Hispanic farm employees form the backbone of agricultural employment on all of Marin's ranches and farms including aquaculture.

[2] This includes Pastoral Zone acreage at PRNS and agricultural land within the Northern District of GGNRA, which is managed by PRNS.

Disproportionate numbers of Hispanic employees would be affected by the cessation of DBOC operations. According to the 2010 US Census, 1,304 residents are in the Inverness census-designated place, and 79 or 6.1 % are Hispanic or Latino ethnicity. If DBOC operations cease, then 22 DBOC staff (100% of whom are Hispanic and Inverness residents) are impacted. Thus, over a quarter, or 28% of the Hispanic population of Inverness could be displaced. Chapter 4 in the DEIS dismisses this impact as minimal to the region (page 402).

The PRNS and GGNRA ranching families have strong ties and dependencies to their Hispanic employees. Their dependency, in turn, has a "ripple effect" on local bankers, accountants, veterinarians, milk testers, equipment retailers, feed mills, and milk haulers---all of whom are dependent on the maintenance of a strong agricultural community in Marin.

Please address the significance of this potential loss on a local level.

Regarding the visitor experience discussion

In Chapter 3, the visitor experience and recreation impact discussion (pg 212) completely misses the mark. The preservation of local traditions and significant cultural landscapes is an important element of the NPS mission and mandate (Sadin 2007). Local producers, and regional and national consumers, recognize Point Reyes and West Marin as a special place, one with authentic foods of exceptional quality. Both the Point Reyes and Olema Valley ranching districts have been determined eligible for listing on the National Register of Historic Places. If embraced as an interpretative opportunity, agriculture and aquaculture, including both historic and current practices, could be a positive addition to the other wonderful natural assets this unique national seashore provides. As highlighted in the 2007 NPS publication, *Stewardship Begins With People* (Diamant et al. 2007), other parks in the NPS system celebrate and support inspirational examples of working landscapes within national park boundaries. At one time, PRNS staff prepared plans to develop a visitor center experience at DBOC (then Johnson's Oyster Farm), a possibility currently being considered by DBOC, and described in Alternative D.

The DEIS states that (pg 212) preferred forms of visitor enjoyment are those that are uniquely suited to the superlative natural and cultural resources found in the parks. These preferred forms of use contribute to the personal growth and wellbeing of visitors by taking advantage of the inherent educational value of parks. The NPS publication, *Stewardship Begins With People* (Diamant et al. 2007) describes Point Reyes as... "a place that can reconnect people to their natural heritage through a richness of wilderness and recreational experiences; and a place that can also reconnect people to the food they eat, the landscapes where it is grown, and the honorable labor of producing it."

PRNS lands provide a direct link between urban consumers and local food producers, as 2.5 million visitors experience the beauty of the area each year. It is a powerful conduit for educating the public about the importance of local food production and security. West Marin is a perfect model for demonstrating how preserving family farms contribute to social, economic and ecological sustainability at a local, regional and even national level. Several PRNS and GGNRA ranchers have been recognized for their environmental stewardship and innovation. Connecting consumers with the origin of their foods is just one small part of the cultural importance of agriculture and aquaculture on PRNS lands.

On page 212 DBOC is described as having no "visitor service" but 5-10% of their sales occur at DBOC providing a very unique visitor experience. Groups are given "aquaculture educational tours" where they learn about oystering history and about aquaculture production. In a recent study about agritourism in California, more than 2.4 million visitors participated in some form of agritourism on California's farms and ranches. This type of "on-farm" interpretation is growing nationwide. Agritourism includes any income-generating activity conducted on a working farm or ranch. It includes the interpretation of the natural, cultural, historical, and environmental assets of the land and people working on it (Rilla et al. 2011).

A growing number of national parks are choosing to embrace their agricultural histories and celebrate their working landscapes. PRNS stands uniquely poised to represent the best of this growing movement. With the continuance of a renewable, use permit, allowing DBOC to operate as a non-conforming use in accordance with the current PRNS GMP, and consistent with similar practices in other federal parks, DBOC could provide a unique visitor service and experience.

As reported on page 213, Responsive Management, a Virginia firm conducted a 2003 study for PRNS of Bay Area residents. The DEIS preparers neglected to include other critical responses that provide a more balanced and complete picture. When asked about the important reasons for having a national park, both protecting wildlife and interpreting the nature and history of the park were equally important. Over 90% of those surveyed who had visited PRNS believed that preserving historic buildings and sites was somewhat to very important, just as much as recreational activities. Additionally, 66% of respondents said that preserving small dairy and beef ranches is a very or somewhat important reason to have a National Park.

When respondents were asked if they would like to see the amount of wilderness at PRNS increase, decrease, or remain about the same, respondents were divided between increasing the amount of wilderness (43%) and having the amount of wilderness remain about the same (38%). Clearly, there are many important visitor experiences beyond what is simply described in the DEIS about visitor experience and preferences.

Much is described regarding increasing kayak experiences at the Estero (in Chapters 3 and 4) should the DBOC cease operations. Again, in the Bay Area survey (Responsive Management 2003), respondents were equally divided between access to riding a horse and kayaking not being an important (neutral to not important) experience at 56% of all respondents.

Please clarify, for the reasons stated above, that the DBOC closure would have a serious negative effect on the PRNS visitor experience.

Regarding aquaculture's value to Marin's agricultural economy

As shown in Marin County's Crop Reports, aquaculture represents an increasing proportion of Marin County's agricultural income: In 2007 it contributed 5% by dollar value to Marin's total agricultural production, in 2008 this number increased to 6%, and in 2009 aquaculture represented 8% of Marin's gross agricultural production. Clearly, aquaculture is an increasingly important part of Marin County's agricultural economy.

Please recognize the increasingly important contribution that aquaculture makes to Marin County's

agricultural economy.

Regarding oyster production and consumption

The DEIS document devalues the service DBOC provides by supplying the greater Bay Area with a renewable food resource. In Chapter 4 various alternatives dismiss the impact of closing DBOC by suggesting that the loss of local production can be made up by shellfish production in Humboldt Bay with no consideration of the carbon impact of transporting millions of oysters along the interstate corridors. Additionally, according to Greg Dale, Manager of Coast Seafood, Humboldt County's largest oyster producer, about 30% of oysters produced by Coast Seafood are sold in California, and the remainder is marketed nationally (Greg Dale personal communication). So, although Humboldt Bay oyster production may be high, a large part of the product produced in this area is sold outside of California, whereas, 100% of DBOC product is processed on farm and sold within the Bay Area for local consumption.

Locally produced food reduces food miles when consumed nearby. Carbon footprint impacts are ignored as one DEIS Alternative suggests that fresh oysters will be driven down the 101 corridor from Humboldt Bay or from Washington state once DBOC operations cease. Tomales Bay growers are currently producing all that they can – the local market is larger than the supply. Tomales Bay growers will not be able to expand at all – they will not be able to make up any of the loss of local shellfish production if DBOC is evicted – contrary to the NPS assertion in the DEIS.

Both Chapter 3 and 4 repeatedly misrepresent and attempt to confuse and confound the reader with inaccurate statistics related to oyster production. In one sentence preparers use a marketing website numerous times to cite quantitative data as if it were fact (70% of fresh oysters consumed in California are from Humboldt Bay). All references in the DEIS that use the Humboldtmade.com marketing website for aquaculture statistics should be removed and replaced with accurate data obtained from verifiable sources.

Please clarify the impact to the environment that shipping oysters from Humboldt to the Bay Area would have and please correct the erroneous statement that Tomales Bay oyster producers would be able to expand to make up for DBOC's lost production. Please also clarify that a large percentage of oysters produced in Humboldt County and sold outside of California and do not contribute to the State's oyster supply.

Regarding Bay Area oyster production

The DEIS presentation of oyster production data for DBOC makes it difficult to understand the impact that removal of DBOC would actually have on local oyster supplies. DBOC is a local food source, which is sold completely within the San Francisco Bay Area. Including DBOC, seven local aquaculture companies contribute oysters to the San Francisco Bay Area.

All of the shellfish producers in Marin County operate on CDFG managed leases, so they all submit annual production data to CDFG. Based on CDFG data displayed in Table 1, simple math shows that DBOC's production accounted for 54% of total Marin County oyster production from 2007 through 2010. If oyster production between Marin County growers was to be compared by weight, proportions would be very close, though DBOC's percentage would increase slightly due to the fact

that Hog Island produces three other types (Eastern, Kumamoto, and native) all of which are smaller than the Pacific oyster.

Table 1. Marin County Pacific Oyster Production 2007 through 2010

# Oysters Produced	Brothers Bernal	Cove	DBOC	Hog Island	Marin	Pt. Reyes	Tom. Bay
2007	653,140	70,136	5,488,620	1,143,800[3]	955,902	282,210	120,608
2008	441,150	90,043	5,139,390	1,627,694[4]	1,387,328	395,498	250,255
2009	1,031,200	31,664	5,396,777	2,481,601[5]	981,095	839,701	306,358
2010	1,095,710	88,430	6,885,609	2,369,314[6]	1,621,129	903,915	337,800
Total	3,221,200	280,273	22,910,396	7,622,409	4,945,454	2,421,324	1,015,021

Regarding potential impacts to the Myrtle's silverspot butterfly

The DEIS states that alternative B could negatively impact the federally-listed endangered Myrtle's silverspot butterfly (MSB) (*Speyeria zerene myrtleae*) by possible vehicle strikes resulting in butterfly deaths. While the access road to DBOC is near the range of the PRNS North Beach population of MSB documented in 1992 (Launer et al 1992), it is not actually within the butterfly's range. If vehicle strikes to the MSB are a real concern, the NPS should consider closure of Sir Francis Drake Boulevard, which runs right through the middle of the North Beach population of MSB and carries many thousands of vehicles every year.

Further, suggesting that the <3 acres of land beneath the DBOC onshore structures that would continue to be used under alternative B could otherwise support coastal scrub vegetation that could be used by the MSB, and that the continued presence of these onshore DBOC structures displaces potential butterfly habitat is nonsensical.

Within the Seashore, the 11,670-acre MSB range includes two populations, one at Tomales Point and one at North Beach. The <3 acres occupied by the onshore facilities, which are not within the documented MSB range, are equal to about .0257% (two and one-half hundredths of one percent) of the total MSB range at PRNS. If displacement of potential MSB habitat by infrastructure is a real concern, then the closure and restoration of the North Beach Parking lot, which is actually within the North Beach range, and the Tomales Point parking lot within the Tomales Point range of MSB, should be considered.

Page 186 states: "Many of these nectar-producing species are common to the Seashore, including the dog violet, which is a main nectar source for the butterfly USFWS 2009)." This is an incorrect statement, as the dog violet is the only larval food plant for the MSB, rather than a nectar plant.

[3] 20% are Eastern oysters and 20% are Kumamoto oysters
[4] 4% are Eastern oysters and 18% are Kumamoto oysters
[5] 3% are Eastern oysters, <1% are native oysters, and 22% are Kumamoto oysters
[6] 1% Eastern oysters, <1% are native oysters, and 24% are Kumamoto oysters

Please correct this error and explain why vehicle strikes of MSB are a concern on a road that is outside of their range, while many well-traveled roads exist within their range. Please also explain why potential displacement of coastal scrub vegetation in an area equal to .0257% (two and one-half hundredths of one percent) of the MSB range within PRNS is discussed in the DEIS.

Regarding California red-legged frog critical habitat
The DEIS states that alternative B could negatively impact the federally-listed threatened California red-legged frog (*Rana draytonii*) (CRLF) by possible vehicle strikes.

Please explain why vehicle strikes of CRLFs are a concern on this short access road, but not on the many miles of other roads within PRNS.

Regarding Central California Coho salmon critical habitat and Central California steelhead
Please explain why eelgrass has expanded dramatically in Drakes Estero in recent years if boat traffic adversely impacts its biomass and abundance by uprooting or otherwise physically damaging plants with boat propellers.

Regarding dismissal of vegetation in Chapter 1
Vegetation should not be dismissed, because of claims made in MSB section about how removal of DBOC infrastructure would make available more land for coastal scrub for MSB. Please analyze vegetation in the context of provision of habitat for the MSB and CRLF since these taxa are addressed in the DEIS.

Unsatisfactory alternatives
We find each of the alternatives presented in the DEIS unacceptable as they conflict with local and state agricultural policy, disregard many of the values and purposes for which PRNS was established, minimize the importance of jobs to the 28% of local Hispanic workers who would eventually be unemployed by closure of DBOC, dismiss the importance and value of the visitor experience that DBOC provides, and minimize the value of DBOC's oyster production to Marin County's agricultural economy, to local food, and to the Bay Area's shellfish supply. We also find the suggestion that DBOC's continued operation poses any risk to Myrtle's silverspot butterflies, California red-legged frogs, and California Coho salmon and Central California steelhead trout to be unreasonable and without merit.

Eventual cessation of shellfish production at DBOC would have severe negative consequences for our community and we support a preferred alternative that would allow continued renewal of DBOC's lease, such as the Collaborative Alternative proposed by the Alliance for Local Sustainable Agriculture.

Respectfully

Ellie Rilla

Lisa Bush

Ellie Rilla
Community Development Advisor
erilla@ucdavis.edu

Lisa Bush
Agricultural Ombudsman

CC: US Senator Dianne Feinstein; Marin County Supervisor Steve Kinsey

References

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William T. Bagley
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Refer To File #: 111111-2222

I submit the item below to follow up on my December 5 submission entitled "New Legal Issue". The Marin I-J will print this as a column this week.

William T. Bagley

December 5, 2011

Brad Breithaupt
Editor
Marin Independent-Journal
P. O. Box 6150
Novato, CA 94949

Brad:

The current "wilderness" controversy over long-time oyster production in Drake's Estero including factual misrepresentations by some opponents may all be rendered irrelevant by simple legal rules of statutory interpretation. Thus, I retrieved records from UC Berkeley's Bancroft Library which contain 475 of my authored and signed bills.

My 1965 Assembly Bill 1024 deeded State-owned Point Reyes tidelands to the National Park Service but reserved, as required by State Public Trust law, the people's "right to fish" in these waters. My AB 767, requested by the Department of Fish and Game, had earlier amended various statutes and specified the word "fish" included "oysters and other shellfish." An Attorney General opinion also confirmed that oysters were "fish", dated September 30, 1965.

There then existed a Fish and Game Commission Estero Oyster Allotment lease to which all of this was and is applicable. The current State lease expires in 2029; lease and license fees are paid to the State annually by the lessee.

The law and rules of contemporaneous interpretation and implementation trump any future claims, by the Federal government or any others, that would change history or alter the vested property rights of the State of California. In specific reference to the Estero lease, after the issuance of the Attorney General's opinion and two weeks after these bills became law, dispositive contemporaneous execution of the statute occurred. Thus, the rights of the State under the 1965 legislative grant were then established in law, just as with any other grant of

land establishing boundary lines or reserving usage rights to the grantor – obviously with access to those rights. Again, future federal claims have no relevancy.

My files contain an October 22, 1965 letter from the Director of the Department of Fish and Game to the Superintendent of the Point Reyes Seashore stating that since AB 1024 "reserved fishing rights to the State, [it] appears all State laws and regulations pertaining to shellfish cultivation remain in effect [and thus] are applicable to the Johnson Oyster Company." The letter requested a response. On March 25, 1966 Superintendent Arnberger responded: "This office is quite agreeable with [your] interpretation [and] should [the Regional office] conclusion be different, I will notify you promptly." There is no such notification.

All of this was confirmed by the National Park Service in a 1974 environmental review of possible wilderness status: "This is the only oyster farm in the Seashore, control of the lease, called a license at times, from the California Department of Fish and Game, with presumed renewal indefinitely, is within the rights reserved by the State."

California appellate courts have been clear regarding statutes conveying public rights to others, to prevent the abandonment of the State's constitutional ownership of public trust properties – and thus the right to lease the fishing rights so reserved. It is clear that the State, and not the federal government, owns the fishing rights in Drake's Estero and thus the right to lease and license their usage in perpetuity. Folks who wish to change history or legal rights should not try to do so while the author is still alive. Simply stated, California cannot give up its Public Trust properties including its rights, protected by the State Constitution, to control fishing rights in the Estero.

I was raised in West Marin in the '30s, hunted Brant geese in the Estero, and I know and love the area but I am not an absolutist. Rather than insist on perpetual rights, a most reasonable accommodation would and should be to effect the 2009 Congressional action sponsored by our Senator Dianne Feinstein to allow continuation of this contested usage for 10 more years. The State's rights and the rights of its lessee can accommodate to that practical resolution. End of controversy.

Bill

Bill Bagley

WTB/jw

-cut here-

CORRESPONDENCE ID: 51242

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields – For My Home?

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: MARA Middle Initial: —

Last Name: FINE

Address: [redacted]

Country: [redacted]

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

Thank you

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PT REYES NS

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CORRESPONDENCE ID: 51243

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required field

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Eili Middle Initial: R

Last Name: HEITUR

Address: [redacted]

Country: USA

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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2011 DEC -6 PM 2:54
POINT REYES NS

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: VALDMAR Middle Initial: —

Last Name: HEITUR

Address: [redacted]

Country:

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Laura Middle Initial: F

Last Name: Szawarzenck

Address: [redacted]

Country:

Email:

___ (Check here if you want your contact information kept private.)

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Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Michael Middle Initial: E

Last Name: KOSTELNIK

Address: [redacted]

Country:

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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CORRESPONDENCE ID: 51248

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Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: CARLADEAN Middle Initial: R

Last Name: KOSTELNIK

Address [redacted]

Country

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests: See Below!

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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Comment Form

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Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Mark Middle Initial: H

Last Name: Semonian

Address: [redacted]

Country: [redacted]

Email:

✓ (Check here if you want your contact information kept private.)

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: Elis Middle Initial: H

Last Name: SEHONIAN

Address: [redacted]

Country: [redacted]

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

RECEIVED
2011 DEC -6 PM 2:54
POINT REYES NS

----------ere----------

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: David Middle Initial: J

Last Name: Navarro

Address: [redacted]

Country:

Email:

✓ (Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

RECEIVED
2011 DEC -6 PM 2:54
POINT REYES NS

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CORRESPONDENCE ID: 51252

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: BRUCE Middle Initial: -

Last Name: BRAMSON

Address: [redacted]

Country:

Email:

___ (Check here if you want your contact information kept private.)

Comments or Requests:

✓ I support a renewable Special Use Permit for Drakes Bay Oyster Company.

RECEIVED
2011 DEC -7 PM 12:28
POINT REYES NS

CORRESPONDENCE ID: 51987

RECEIVED
2011 DEC -9 PM 2:15
POINT REYES NS

December 8, 2011

Draft EIS DBOC SUP
c/o Superintendent,
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Dear Cicely:

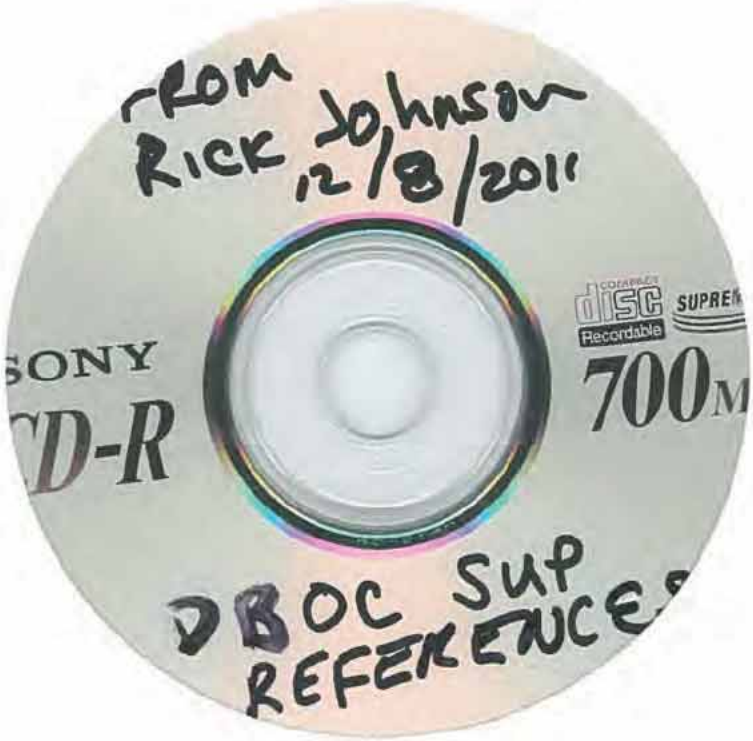
In my DEIS comments I am citing information in sources not included in the DEIS reference list. I put them on the enclosed CD, as they are too voluminous to print out and more useful as PDFs. I ask that the EIS team review them for use in the final EIS. I am sure the authors or in the case of MLPA documents, the MLPA staff, can verify them and answer questions.

To follow up on one of the documents, I suggest the EIS team talk to James Moore at the shellfish lab at Bodega Bay as he has additional unpublished information about testing of native oysters from Drakes Estero.

Best regards,

Rick Johnson

Rick Johnson



December 2, 2011

Superintendent,
Pt. Reyes National Seashore
Pt. Reyes, California

Dear Sir:

I am a long-time resident of the area, and recall the Johnson oyster company being at Drakes Bay. As far as I can remember, oysters and seals have gotten along well. (my memory goes back to 50 years ago, when I arrived here!)

So, please STOP the endless wrangling and repetitous "studies", and give the oysters a lease extension. People need protein from the oysters, and we locals need surcease from all those letters to the editors of both local papers!

Sincerely,

(Ms) Ewell McIsaac

[redacted]

POINT REYES NS
2011 DEC -8 PM 2:08
RECEIVED

RECEIVED
2011 DEC -9 PM 2:14
POINT REYES NS

Richard Plant
[redacted]

Dec 8, 2011

Cicely A. Muldoon
Superintendent Point Reyes National Seashore.
Point Reyes Station, CA 94956

Re. Draft Environmental Impact Statement and renewal of Special Use Permit for Drake's Bay Oyster Co.

Dear Superintendent Muldoon,

I have lived in Inverness, California, which is near Drake's Estero, for the last 49 years. I am also a long time member of the Marin Resource Conservation District Board of Directors and am intimately familiar with a number of resource issues in our area.

I was an early supporter of the continued growing of oysters in Drake's Estero. My wife and I have often eaten and enjoyed oysters grown in this location.

Subsequent to my first support for the Drake's Bay Oyster company, information has been developed to suggest that oyster growing may negatively impact harbor seals or other wilderness assets of the growing area. I don't doubt that there are impacts. In the waters of Drakes Estero, it is a safe to assume that the growing of oysters uses food and space that otherwise would be available to other forms of sea life.

To date, and because of the work of the Marine Mammal Commission, it appears that existing studies are insufficient to say whether the apparent impacts on seals by oyster growing in Drake's Estero are simply correlative or possibly causal in nature.

Although I am a lover of oysters, I don't want the health of seal colonies or other natural resources to be seriously impacted by oyster growing. Therefore I suggest that if the oyster leases are renewed, the Department of Interior and the Park Service require additional scientific monitoring and studies of possible adverse impacts. Furthermore, I request that throughout a possible extended lease period, the Park Service retain the specific and clearly stated authority to impose conditions to protect wilderness resources at whatever time they might be threatened.

Such conditions could include reducing take, reducing size or locations of growing areas, reducing times of harvesting, closure, or whatever other measures may be required to protect wilderness resources.

Thank you for your attention,

Sincerely,

Richard Plant

Richard Plant

Comments regarding the Draft EIS for the Drakes Bay Oyster Company Special Use Permit:

Dear National Park Service,

I support Alternative A in the draft Environmental Impact Statement - Full Wilderness designation for the entire Drakes Estero within the Point Reyes National Seashore.

Alternative A is the environmentally alternative that would expand and provide the best habitat protections for all of the turtles, sharks and other critters of our coast. We need this area as wilderness.

The Oyster Company Must Go!

Full Wilderness for Drakes Estero!

Thank you!

Chris Winn

Name: Chris Winn

Email: [redacted]

Mailing addres

2011 DEC -9 AM 11:40
POINT REYES NS

Comments regarding the Draft EIS for the Drakes Bay Oyster Company Special Use Permit:

① I have supported this oyster farm for over fifty years!

② Oysters have played an important part in the history of California continuously starting before statehood.

③ None of the proposed alternatives, brought to my attention on October 18, 2011, are appropriate. I think the Park Service should consider a renewable Special Use Permit.

④ Drakes Bay Oyster Company has shown its willingness to work with the Park Service.

⑤ Drakes Bay Oyster Company has made great strides in their stewardship of the land after the purchase of the Johnson Oyster Company.

⑥ Parks are for people! If the Oyster Farm is put out of business, the workers will be unemployed, oyster loving people will not be coming to the park, restaurants will suffer, bus loads of school children will not come to be educated on the food supply of aquaculture farming, and the kayaks will probably be banned. The Park Service will lose the income from the Oyster Company. All of this will be a huge loss to the Park.

⑦ I think the Park Service should adhere to its existing management policies, which support the continuation of the Oyster Farm.

Jonathan B Allen

Name: JONATHAN B. ALLEN

Email: [redacted]

Mailing addres [redacted]

2011 DEC -8 PM 2:08
EYES NS

Comments regarding the Draft EIS for the Drakes Bay Oyster Company Special Use Permit:

ALTERNATIVES FOR THE DRAKES BAY OYSTER COMPANY PRESENTED ON OCTOBER 18, 2011, IN MY MIND, ARE NOT ACCEPTABLE! IT HAS NOW BEEN BROUGHT TO MY ATTENTION THAT THERE IS A NEW ALTERNATIVE IN CONCIDERATION. THIS NEW "COLLABORATIVE MANAGEMENT ALTERNATIVE" REALLY MAKES SENSE. IT IS SO MUCH BETTER THAN THE ORIGINAL ALTERNATIVES A, B, C OR D! I FULLY SUPPORT THE COLLABORATIVE MANAGEMENT ALTERNATIVE AS THE PREFERRED ALTERNATIVE IN THE FINAL DBOC SUP EIS. PLEASE KEEP THE DRAKES BAY OYSTER COMPANY AS PART OF THE POINT REYES NATIONAL SEASHORE.

Jonathan B Allen

2011 DEC -8 PM 2:08
POINT REYES NS

Name: JONATHAN B. ALLEN

Email: [redacted]

Mailing address: [redacted]

Alliance for Local Sustainable Agriculture - ALSA

22555 Highway 1 • Marshall, CA 94940 • 415-663-8618 • alsamarin.org

December 9, 2011

Draft EIS DBOC SUP c/o Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Hand delivered

Dear Superintendent Muldoon,

The Alliance for Local Sustainable Agriculture is submitting the following proposed alternative to the National Park Service (NPS) with the recommendation that it be incorporated into and adopted as the "Preferred Alternative" in the Environmental Impact Statement (EIS) on a Proposed Special Use Permit (SUP) for the Drakes Bay Oyster Company (DBOC).

In 2009 Congress authorized the Secretary of the Interior to grant DBOC a SUP with the same terms and conditions as the Reservation of Use and Occupancy that expires in 2012, modified to take into consideration "recommendations of the National Academy of Sciences [NAS] Report pertaining to shellfish mariculture in Point Reyes National Seashore."

The National Research Council (NRC) of the NAS found a lack of scientific evidence that shellfish cultivation has adverse effects on Drakes Estero. It proposed establishment of a "mariculture interpretive center" that would include exhibits on the ecology of the Estero, including its shellfish mariculture. Members of the Marine Mammal Commission (MMC) Panel convened in February 2010 to study the impact of shellfish cultivation in Drakes Estero encouraged a "collaborative and adaptive approach" to resolving questions about potential impacts of shellfish cultivation. The 2011 MMC report recommended development of a collaborative adaptive management approach to management of shellfish mariculture in the Estero.

COLLABORATIVE MANAGEMENT ALTERNATIVE:

A Ten-Year Special Use Permit with Option for Extension;
Rehabilitation of Existing Facilities; Construction of New Processing Facilities

This alternative permits DBOC to continue to utilize onshore facilities within the Seashore (PRNS) pastoral zone to support shellfish cultivation in Drakes Estero pursuant to its leases from the California Department of Fish and Game [CDFG]. DBOC would pay "fair market value" for use of the on-shore facilities, which would take into account the value of interpretive services provided by DBOC and the investment needed to rehabilitate existing facilities and construct new processing facilities. The rehabilitation and construction work would be as described in the discussion of Alternative D.

ALSA Board:

Jeffrey Creque, Ph.D., Petaluma
Michael Greenberg, Inverness
Lynnette Kahn, Marshall
Webster Otis, Stinson Beach
Peggy Rathmann, Nicasio
Jo Ann Stewart, Olema
Elizabeth Ü, Bolinas
John Wick, Nicasio
Donna Yamagata, Inverness

Under this alternative, DBOC will collaborate with relevant organizations, including but not limited to the NPS, the CDFG, the UC SeaGrant program and other educational and research agencies in developing interpretive programs and scientifically valid research projects as recommended by the NRC and MMC. This alternative provides educational opportunities for people of all ages, including Seashore visitors, students and researchers, relating to estuarine ecology and mariculture.

This alternative is consistent with the "national interest" expressed in President Clinton's May 26, 2000 Executive Order 13158 directing the Departments of Commerce (DOC) and Interior to expand and strengthen the "Nation's system of marine protected areas." It respects the California Fish and Game Commission designation, effective May 2010, of Drakes Estero as a State Marine Conservation Area (SMCA), a protected area in which recreational clam digging and shellfish cultivation pursuant to CDFG leases are permitted. DBOC's operation within a SMCA and PRNS presents a unique opportunity for collaborative research that supports the policies of the National Shellfish Initiative [Initiative] announced by NOAA and DOC in June 2011, and responds directly and positively to NRC and MMC recommendations regarding collaborative efforts to inform adaptive.management of Drakes Estero.

This alternative supports the goals of the Initiative, which are to increase domestic seafood production, create sustainable jobs and restore marine habitats. It provides opportunities for research as called for by the Initiative, "....on the interactions between shellfish and the environment in terms of climate change, ocean acidification, naturally occurring pathogens and parasites, and other factors . . ." This alternative supports DBOC's efforts to restore native oysters in Drakes Estero and to study the potential for native oysters to withstand the effects of global ocean acidification now beginning to affect all Pacific coast shellfish.

This alternative sustainably supports the local economy by continuing to attract thousands of ethnically diverse visitors to West Marin every year and continuing to provide over half of the San Francisco Bay Area's sustainably farmed shellfish. It protects desperately needed affordable housing for farmworkers on remote Point Reyes ranches.

Under this alternative, DBOC will continue to provide essential oyster shell for environmental programs, including the San Francisco Bay Native Oyster Restoration Project, the SF Bay Bird Observatory Snowy Plover Habitat Enhancement Project and the California Department of Fish and Game Least Tern Habitat Enhancement Project.

This alternative supports a landscape that is ecologically and economically sustainable. It is consistent with the natural resource management provisions in the PRNS General Management Plan, and enables the Seashore to collaboratively integrate ecosystem science and natural and cultural resource management to better understand and manage relationships among the physical, biological, and cultural elements of a working land and seascape, while maintaining its distinctive "sense of place and character."

Sincerely,

Jeffrey Creque, Ph.D.

Drakes Bay Oyster Company
17171 Sir Francis Drake Boulevard
Inverness, CA 94937
(415) 669-1149
kevin@drakesbayoyster.com
nancy@drakesbayoyster.com

DEC -8 PM 4:33
YES NS

December 8, 2011

Draft EIS DBOC SUP c/o Superintendent
Point Reyes National Seashore
One Bear Valley Road
Point Reyes Station, CA 94956

Re: Comments for Draft EIS on Lease Extension Drakes Bay Oyster Company

Dear Superintendent Muldoon,

We recognize that the National Park Service (NPS) has not yet selected the "preferred alternative" in the Draft EIS. With great pride, Drakes Bay Oyster Company (DBOC) and the Lunny family submit this comment letter in support of the NPS selecting as its preferred alternative issuing a SUP to DBOC for continuing the farm. We have attached more than 7,700 letters from citizens, individuals, and families from 47 States and at least 29 countries that have visited DBOC and who have expressed their support of the continuation of DBOC at Drakes Estero.

Said one visitor, a retired National Park Service planner who worked on regional planning committees back in the 1970's, "***keep the oyster farm just as is...hasn't changed in 35 years and was the original planning team's recommendation to keep 'as is' for public information re: early history***."

These letters have one thing in common: each was personally signed by actual visitors to the oyster farm here at the Seashore, a well-known and popular destination for Seashore visitors.

Thank you for the opportunity to comment on the Draft EIS.

Sincerely,

Kevin Lunny Nancy Lunny Ginny Lunny Cummings

Attachment (USB flash drive containing pdfs of over 7700 letters)

The Marine
Mammal Center.

2011 DEC -9 PM 2:14
POINT REYES NS

December 9, 2011

Draft EIS DBOC SUP
c/o Superintendent,
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Re: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

The Marine Mammal Center (TMMC), in Sausalito, California, rescues, rehabilitates and releases back to the ocean hundreds of marine mammal patients each year. Based on that core work, TMMC also engages in scientific research and leads school and other public education programs on marine mammals and the ocean environment that we share with them.

Having cared for more than 16,000 patients in 36 years of operation, the Center has a great depth of experience in marine mammal clinical medicine and through its clinical staff has advanced the science behind the care of those animals. The research that TMMC conducts with its partners in the scientific community has illuminated our understanding of domoic acid toxicosis, cancer, and infectious diseases such as leptospirosis in these species. We have contributed to the understanding of marine mammal population health, and by extension, ocean health. On several fronts, our collaborations have led us to direct applications of our research to contemporary issues in human health.

TMMC has reviewed the draft EIS for the Drakes Bay Oyster Company's Special Use Permit and believe that alternative A (no new special use permit) is the best alternative for the harbor seal population.

Drakes Estero is a primary nursery area for harbor seals from the Russian River, San Francisco Bay and the outer coast. It is closed to human activity during the pupping season with the exception of Drakes Bay Oyster Company activities. As human occupation and development of the Bay Area has increased, harbor seals have lost some of their traditional nursery areas (such as the one that used to exist on Strawberry Spit in Richardson Bay) increasing the relative importance of a less disturbed area like Drakes Estero to the harbor seals within San Francisco Bay. Disturbance of habitat in some cases is increasing as evidenced by the disturbance of harbor seals at the mouth of the Russian river by heavy equipment opening and closing ocean access for salmon improvement. As a result, the central coast harbor seal population has seen no increase in over 15 years. Even within Drakes Estero, however, the harbor seals have been constrained to limited sandbar space by human activity at the mouth of the Estero, predation by coyotes on the

2000 Bunker Road • Fort Cronkhite • Sausalito, CA 94965-2619 • T 415.289.SEAL • F 415.289.7333 • MarineMammalCenter.org
Monterey Bay • PO Box 778 • Moss Landing, CA 95039 • T 831.633.6298 • F 831.633.5927
San Luis Obispo • 1385 Main Street • Morro Bay, CA 93442 • T 805.771.8300 • F 805.771.8304
Anchor Bay-Fort Bragg • T 415.289.SEAL

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mainland, and the presence of oysters on other sandbars. Removal of the oyster operation will provide more safe, nursery space for our local, native seals that have lost so much of their natural habitat.

Harbor seal pups remain with their mothers after birth for a short, but intense, period (3-5 weeks). During this time, their immune systems develop rapidly and they double their weight (storing energy for a post-weaning period when they will learn to forage on their own). If this nursing period is cut short, most pups will not survive. At our hospital for sick and injured marine mammals, the majority of our harbor seal cases are young (less than 4 week old) pups. These pups are separated from or abandoned by their mothers and not capable of surviving on their own. We believe many of these pups are born in "inappropriate" places near human disturbance because of lack of suitable pupping areas in the San Francisco Bay area. We provide supportive care, treat illness, and return pups to the wild once they have gained sufficient weight and are capable of feeding themselves. We have thirty-five years experience caring for these animals, and spearhead a yearly publicity campaign to educate the public about the risk of disturbance to seals during this crucial period of development

While alternative A is a good alternative for harbor seals, alternatives B, C, and D are not. The ongoing displacement and disturbance that will occur with alternative B, C, or D is spelled out by the draft EIS, but the allowed increased in oyster production under these alternatives may have more harmful effects than those described in the EIS. Displacement of the harbor seals toward mainland sites at the mouth of the Estero puts them at increased risk of disturbance from coyotes and humans that use Drakes Beach and Limantour Beach. Additionally, ongoing and increased disturbance may increase the risk of separation between mother and pup, especially in the first few days of life, leading to increased mortality. Post mortem results from dead pups recovered from the mouth of Drakes Estero did not exhibit the signs of malnutrition or infection that we often see in our stranded seal pups, suggesting that separation was quickly followed by death and not related to infectious disease. The recent Marine Mammal Commission report found that some disturbance is inevitable in mariculture activities.

For these reasons, we urge the National Park Service to adopt alternative A as a preferred alternative in the final EIS. In addition, the adverse impacts (particularly displacement of harbor seals to nursery habitat of less quality) from alternatives B, C, or D could be described as major, since the isolated sand bars in Alternative A provide a safe refuge in the event of harm or drop in the regional population.

The EIS should focus on the benefit to the harbor seal population not whether the options might harm the population. Alternative A would constitute a gain for a very vulnerable population of harbor seals. There are very few examples where we can remediate the harm caused over the decades by human encroachment and disturbance of marine mammal habitats. Having Drakes Estero become a true wilderness as originally envisioned would be one of those rare occasions.

Sincerely,

Jeff Boehm
Executive Director

NATIONAL COALITION for DRAKES ESTERO WILDERNESS

PM 2:13
POINT REYES NS

December 9, 2011

Superintendent Cicely Muldoon
Draft EIS DBOC SUP c/o Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Re: Support Alternative A, Marine Wilderness designation at Point Reyes National Seashore

Dear Superintendent Muldoon:

We, the undersigned, support Wilderness for Drakes Estero and urge the Secretary of Interior to adopt Alternative A, the No Action Alternative, since it is the Environmentally Preferred Alternative and the only alternative that is wholly supported by federal law, policy and best available science.

Drakes Estero is a national treasure long-destined for wilderness protection in 2012. The only marine wilderness on the West Coast is the ecological heart of Point Reyes National Seashore and a refuge for fish, marine mammals, and migrating birds. Alternative A upholds the intentions of the Point Reyes Wilderness Act to ensure that all Americans have access to a wild marine environment.

The Point Reyes enabling legislation, the Wilderness Act, the Point Reyes Wilderness Act, National Park Service policies and a long list of other federal and state laws and policies direct the National Park Service to protect, conserve and restore natural resources and ecosystems and prevent their degradation by incompatible uses and invasive species.

Allowing a private, commercial use to retain hegemony over this public treasure would set a terrible precedent for public, national park, and wilderness lands throughout the United States. The National Park Service and the original oyster operation owner made a legal agreement that oyster production would cease on November 30, 2012. Thus, NPS should select Alternative A and allow full wilderness for the Estero, which has been intended for 40 years.

The peer-reviewed science in the DEIS which illustrates impacts to harbor seals from mariculture operations was recently validated by the Marine Mammal Commission Report. The negative impact on harbor seals is only one of the numerous long-term adverse environmental impacts from invasive non-native oyster and clam cultivation. The mariculture operation also produces significant adverse impacts to eelgrass, birds, native fish, benthic fauna, endangered species, overall ecological integrity, and to the resilience of Drakes Estero in the face of climate change. The oyster operation also generates untold volumes of PVC plastic that litters local beaches, literally trashing the wilderness and the visitor experience.

Based on the volume of ecological impacts, only a few of which are mentioned here, and federal law and policy, discussed above, we urge you to select Alternative A, which will restore the benefits of this national public resource for wildlife and the American people for generations to come.

Respectfully submitted,

Amy Trainer
Environmental Action Committee of West Marin

Neal Desai
National Parks and Conservation Association

Gordon Bennett
Save Our Seashore

Amy Meyer
People for a GGNRA

Melissa Samet
National Wildlife Federation

Barbara Salzman
Marin Audubon Society

Cindy Shogan
Alaska Wilderness League

John Toppenberg
Alaska Wildlife Alliance

Matt Skroch
Arizona Wilderness Coalition

Dan Taylor
Audubon California

Scott Feierabend
Audubon Canyon Ranch

Mike Painter
Californians for Western Wilderness

Francis Eatherington
Cascadia Wildlands

Adam Keats
Center for Biological Diversity

John Stansfield
Central Colorado Wilderness Coalition

Bill Wade
Coalition of National Park Service Retirees

Kim Delfino
Defenders of Wildlife

Leda Huta
Endangered Species Coalition

Brian Trautwein
Environmental Defense Center

Andrew J. Orahoske
Environmental Protection Information Center

Michael Lang
Friends of the Columbia Gorge

Michael Lynes
Golden Gate Audubon Society

Veronica Egan
Great Old Broads for Wilderness

John Robison
Idaho Conservation League

Dave Philips
International Marine Mammal Project

Rachel Fazio
John Muir Project of Earth Island

Joseph Vaile
Klamath-Siskiyou Wildlands Center

Richard Charter
National Outer Continental Shelf Coalition

Johanna Wald
Natural Resources Defense Council

Jim Northup
Northeast Wilderness Trust

Kaitilin Gaffney
Ocean Conservancy

Erik Fernandez
Oregon Wild

Zeke Grader
Pacific Coast Federation of Fisherman's Associations

Doug Norlen
Pacific Environment

Thomas Bancroft
People For Puget Sound

Jeff Ruch
Public Employees for Environmental Responsibility

Rebecca Tarbotton
Rainforest Action Network

Huey Johnson
Resource Renewal Institute

Todd Steiner
Salmon Protection and Watershed Network

David McGuire
Sea Stewards

Vicky Hoover
Sierra Club

Dave Willis
Soda Mountain Wilderness Council

David Keller
Sonoma County Conservation Action

Andrew Harris
Turtle Island Restoration Network

Carol Lena Miller
Virginia Wilderness Committee

Tom Uniack
Washington Wilderness Coalition

Mike Costello
West Virginia Wilderness Coalition

Janine Blaeloch
Western Lands Project

Bryan Bird
Wild Earth Guardians

Brent Plater
Wild Equity Institute

Kurt Beardslee
Wild Fish Conservancy

Scott Silver
Wild Wilderness

Gwen Barlee
Wilderness Committee

Daniel A. Smuts
The Wilderness Society

George Nickas
Wilderness Watch

Matthew Koehler
WildWest Institute

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

NOV 17 2011

DBOC SUP EIS
c/o Superintendent
Cicely Muldoon
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, California 94956

Dear Ms. Muldoon:

NOAA's National Marine Fisheries Service (NMFS) appreciates the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Drakes Bay Oyster Company (DBOC) Special Use Permit (SUP), September 2011, prepared by the National Park Service (NPS) and their consultants.

NMFS reviewed the DEIS primarily from the perspective of the impacts of the action alternatives on marine resources and ecosystems. We also reviewed the adequacy of the methodology used in the analysis and identified additional information NPS should consider as it develops the final Environmental Impact Statement (FEIS). Our detailed comments are provided in the attachment.

Based on a review of our records relating to the trust resources for which NMFS has responsibilities under the Marine Mammal Protection Act, the Endangered Species Act, and the Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act:

- Based on the evidence and information that has been made available, the harbor seal population in Drakes Estero appears stable and healthy. We have no documentation of any recent disturbance of harbor seals by the aquaculture operation. We have no records of violations by DBOC or law enforcement investigations of DBOC under the Marine Mammal Protection Act.
- There is no indication of negative impacts to fish species of concern to NMFS, including ESA-listed salmonids and their critical habitat.
- There do not appear to be any significant impacts of DBOC operations on Essential Fish Habitat in Drakes Estero overall. We have no records to indicate that DBOC is impacting eelgrass to the degree that the eelgrass is not healthy or not providing adequate habitat values to the estero.

To improve the overall technical quality of the FEIS, we recommend that NPS:

- Modify the methodology so that all the alternatives are compared to the existing conditions baseline (as described in sections 1502.14, 1502.15, and 1502.16 in the CEQ regulations at http://ceq.hss.doe.gov/ceq regulations/regulations.html)
- Add the National Aquaculture Act of 1980 as a relevant law informing this DEIS
- Expand the analysis to consider impacts on cultural resources and visitor experience
- Modify the analysis to take into account the ability of ecosystems to recover from negative impacts
- Provide a more balanced consideration of the ecosystem services and the positive impacts of shellfish aquaculture on habitat and water quality
- Include additional citations from the scientific literature.

In June 2011, NOAA adopted a new Marine Aquaculture Policy to enable the development of sustainable marine aquaculture within the context of NMFS multiple stewardship missions and broader social and economic goals. Under this policy, NOAA is committed to protecting wild species and ecosystems, and making timely and unbiased management decisions based upon the best scientific information available. We are committed to working with Federal partners to provide the depth of resources and expertise needed to address the challenges facing expansion of aquaculture in the United States. In keeping with the policy of encouraging sustainable aquaculture while protecting wild species and ecosystems, NMFS offers the attached comments on the Park Service's DEIS.

Thank you for consideration of our comments and recommendations. If you have any questions regarding our comments please contact Monica DeAngelis, 562-980-3232, Monica.DeAngelis@noaa.gov or Diane Windham, 916-930-3619, Diane.Windham@noaa.gov.

Sincerely,

Kevin Chu

for Rodney R. McInnis
Regional Administrator

Enclosure

Enclosure: National Marine Fisheries Service Comments on the Draft Environmental Impact Statement for Drakes Bay Oyster Company Special Use Permit

General Comments

The design of the program to monitor harbor seal abundances and disturbance events at sub-sites within the Estero does not permit explicit tests of the impacts of mariculture. The disturbance data appear to have been collected during surveys designed primarily to monitor seal abundance trends, and observations of disturbance are not sufficiently representative to infer the proportionate contribution of mariculture-related disturbance relative to other sources of disturbance to hauled-out seals. NMFS recommends a reevaluation of monitoring protocols if the intent is to collect information regarding disturbances and potential impacts at the individual level, stock, and/or population level.

The EIS does not take into account nor provide any detailed analysis of other human influenced impacts to the ecosystem at the Estero. In Brasseur and Fedak (2003), tagged seals showed a 50% reduction in use of the area compared to use of the same area in years with less recreational boat traffic, and these disturbances also appeared to influence diving behavior. It is not clear how close the oyster rack and oyster bag areas are within Drake Estero to the sand flats used by harbor seals as haul-out sites. NMFS recommends evaluating the 100 yard recommended distance. It is important to recognize that the analysis showing a relationship between mariculture activities and a decline in the mean seal attendance at two of three haul-out subsites in Drakes Estero does not demonstrate cause and effect in the DEIS. NMFS recommends that data be provided on this topic. Potential negative effects of mariculture operations and activities on the harbor seal population represent the most serious concern expressed in the DEIS, which cannot be fully evaluated because these effects have not been directly investigated. NMFS supports precautionary measures to reduce the likelihood of disturbance of seals which are consistent with current management practices in the U.S.

NMFS found that some important information is missing or has been overlooked in the DIES. NMFS provides additional references in the comments below and recommends that the NPS review these references and expand on the impacts analysis in the final EIS. Many of the ecosystem services provided by oyster aquaculture in Drakes Estero have only been touched on lightly, and NMFS hopes that the comments below are helpful in that regard.

Specific Comments

Chapter 1, Page 21

"In early December 2009, NPS and CCC issued letters of violation to DBOC for placement of Manila clam bags within one of the harbor seal exclusion areas (NPS 2009cxx; CCC 2009axxi). In response, DBOC stated that clam bags had been placed within a harbor seal protection area because their global positioning system (GPS)

coordinates were misread and the misplaced clams would be immediately removed (DBOC 2009axxii)."

In this instance: the document does not 1) report whether any disturbances were recorded during this time, 2) which harbor seal exclusion area; and, 3) with what proximity to the seals. This level of information could assist with determining appropriate distances that may minimize take as defined under the Marine Mammal Protection Act (1972).

Chapter 1, Page 25
"Commercial shellfish operations could potentially impact these species and their habitat through habitat competition, habitat improvement or degradation, noise and physical disruptions, and introduction of nonnative species."

Each of these points should be better described in the document, including how commercial shellfish operations may impact harbor seals as well as other potential activities that may or may not impact the harbor seals.

Page 32, Cultural Landscapes
NMFS recommends against dismissing cultural resources as a topic for further analysis. Oyster culturing in Drakes Estero pre-dates existence of the National Seashore; DBOC's facilities and structures provide a cultural landscape as well as a culturally historical experience for park visitors. Impacts of the alternatives on cultural resources need to be analyzed because the project objectives stated on page 5 include "manage natural and cultural resources to support their protection, restoration, and preservation." As stated in the DEIS (p. 32): "According to NPS-28: Cultural Resource Management Guideline (NPS 2002b), a cultural landscape is a reflection of human adaptation and use of natural resources and is often expressed in the way land is organized and divided, patterns of settlement, land use, systems of circulation, and the types of structures that are built. The character of a cultural landscape is defined both by physical materials, such as roads, building, walls, and vegetation, and by use reflecting cultural values and traditions."

Page 37, Relevant Federal Laws and Policies
Please add the National Aquaculture Act of 1980, as amended, as a relevant law to be considered in the laws and policies informing this EIS. The National Aquaculture Act of 1980, as amended (16 U.S.C. 2801, et seq.), which applies to all federal agencies, states that it is "in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States." The purpose of the act includes "encouraging aquaculture activities and programs in both the public and private sectors of the economy; that will result in increased aquacultural production, the coordination of domestic aquaculture efforts, the opportunities, and other national benefits."

Chapter 2, Page 61
"The lease boundaries were drawn prior to creation of the harbor seal protection areas designated in the 2008 SUP. Another concern with the original lease boundaries is that they were drawn without the aid of technology. It should be noted that the lease boundaries were also identified in the SUP as the offshore permit area. DBOC asserts

that the original mapping mistakenly excluded five of the racks in Bed 6 that were in existence at the time (DBOC 2011eii). Although most correspondence has cited five racks outside of the existing lease areas, the GIS data provided by DBOC and being used to support the development of this EIS indicates six racks outside the lease boundaries."

The document does not describe how the harbor seal protection areas were designated in the 2008 SUP. NMFS recommends that the boundaries of the harbor seal protection areas be reviewed. In addition, it is not clear if the harbor seal protection area encompass all areas where harbor seals have been observed to haul out or only the major areas with large numbers of harbor seals. The maps should also designate which haul out sites are used as rookeries during pupping season. In addition, NMFS recommends that suitable haul out sites for harbor seals that may not currently be used by harbor seals be described in the document and mapped. This will aid in review of the potential for more haul out sites to be available as described in Alternative A. Both the harbor seal protection areas and the lease boundaries should be mapped using the same program to aid in comparison. NPS should explain why six racks are considered outside of the lease boundaries if almost all correspondence has cited five, or update the information regarding the request to adjust the boundary to Lease M-438-01, if it has been finalized. A reference should be provided.

Chapter 3, Page 179, Harbor Seals

"Monitoring objectives have often included detection of changes to population size, evaluating reproductive success, and identifying anthropogenic or environmental factors that affect the existing population."

NPS should provide documentation that there has been an effect on the reproductive success of harbor seals at the Estero through the monitoring objectives.

"Population size and reproductive success of harbor seals can be attributed to a number of factors, one of which is the availability of high quality breeding habitat."

NPS should provide details on habitat quality and how it may or may not relate to the Estero. Drakes Estero represents an important site for harbor seals, supporting about 20% of the mainland California population, thus a comparison of the present habitat quality and the future habitat quality for each of the Alternatives should be discussed.

"Seal abundance at haul-outs is influenced by multiple factors, including time of day, tide level, current direction, weather, season, year, disease outbreaks, disturbances from other wildlife, and human activities (Yochem et al. 1987; Suryan and Harvey 1999; Thompson, Van Parijs, and Kovacs 2001; Grigg et al. 2004; Hayward et al. 2005; Seuront and Prinzivalli 2005; NAS 2009). Environmental factors such as El Niño–Southern Oscillation events can affect attendance and reproduction (Trillmich and Ono 1991; Sydeman and Allen 1999) due to the changes in weather patterns and ocean temperatures that usually accompany this Pacific Ocean phenomenon."

It is not clear if the protocol to collect data on harbor seals in the Estero considered these factors and how these factors may or may not influence the numbers of seals hauled out and anthropogenic disturbances versus non-manmade disturbances (*i.e.*, presence of a predator). NMFS recommends that these factors be considered and analyzed in the document under each of the alternatives.

"Human activities can disturb seals at haul-out sites, causing changes in seal abundance, distribution, and behavior, and can even cause abandonment (Suryan and Harvey 1999; Grigg et al. 2002; Seuront and Prinzivalli 2005; Johnson and Acevedo-Gutierrez 2007)."

NMFS is familiar with these peer-reviewed articles, but harbor seals are still hauling out at the Estero. Based on the data provided in the EIS, it is difficult to assess the future haul out potential that the Estero may have or whether the current environment has depressed this potential. Haul-out sites in Drakes Estero and adjacent to Estero according to the EIS have been divided into eight subsites based on habitat conditions. The EIS does not detail what these habitat conditions may be and the importance of these conditions to the environment for hauling out. During a single day, seals can move from one subsite to another. NMFS recommends a discussion on how movement from these subsites may be impacted by any of the proposed Alternatives.

Chapter 3, Page 181, Harbor Seals

"The document is under internal review by MMC. This report will be reviewed and considered as part of the NEPA process for this EIS when it becomes available."

NMFS supports the consideration of this document.

"Between spring 2007 and 2010, more than 250,000 digital photographs were taken from remotely deployed cameras overlooking harbor seal haul-out sites in Drakes Estero. The photographs were taken in one minute intervals. Because the collection of these photos was not based on documented protocols and procedures, the body of photographs does not meet the Department's standards for a scientific product. As a result, the photographs have not been relied upon in this EIS. These photographs are posted and available for review on the NPS website at http://www.nps.gov/pore/parkmgmt/planning_reading_room_photographs_videos.htm."

NMFS recommends that the EIS provide information on which photographs, if any, were analyzed for impacts to harbor seals. NMFS was unable to review all 250,000 photographs and was not able to know which photographs were of importance for analysis purposes.

Chapter 3, Page 206

"High ambient sound levels from human voices, and sound events associated with human activities (e.g., driving cars, hiking), have been observed to have negative population-level, behavioral, and habitat-use consequences in many species (Frid and Dill 2002; Landon et al. 2003; Habib, Bayne, and Boutin 2007)."

The term "high ambient sound" is confusing. If the human voices are audible above the ambient sound, then that should be discussed in detail. If use of the term "high ambient sound" is meant to indicate that the ambient sound at Drake's is higher than in other areas, this comparison should be made and measurements provided.

Chapter 3, Page 206
"The impacts of underwater noise on marine mammals have been widely documented during the past 40 years, and have been the subject of three reports by the NAS (NAS 2003)."

NPS should provide a detailed description of all activities that may cause underwater noise that may impact marine mammals in the Estero. NPS should also provide information on how the measurements were obtained, calculated, and modeled. The noise threshold that is being used to determine potential behavioral changes, temporary threshold shift, or permanent threshold shift should also be provided and mapped with the location of the sound source and the distance the sound propagates in the environment, taking into consideration the specific factors that may influence sound propagation in the Estero.

Chapter 3, Page 213
"Visitors to the area use Drakes Estero and its environs for recreational activities such as kayaking and hiking. Drakes Estero is open annually to kayakers from July 1 to February 28. Closures are in place from March 1 to June 30 to protect harbor seals during pupping season."

NMFS supports efforts to minimize impacts to harbor seals, particularly during pupping season.

Chapter 3, Page 227
"Seashore staff are responsible for ensuring that closure policies within Drakes Estero are adhered to during harbor seal pupping season. Harbor seal pupping season occurs within Drakes Estero between March 1 and June 30. During this period, all recreational nonmotorized boats, including kayaks, are prohibited from entering Drakes Estero."

NMFS and the USFWS are the Federal agencies with statutory responsibility under the Marine Mammal Protection Act (MMPA) and Endangered Species Act. , NMFS is the agency responsible under the MMPA for harbor seal conservation. NMFS supports measure to minimize impacts to harbor seals and encourages the NPS to work directly with NMFS Southwest Regional Office regarding development of harbor seal conservation and management measures.

Chapter 4, Page 233, General Analysis Methods
"This analysis incorporates the best available scientific literature applicable to the region and setting, the resources being evaluated, and the actions being considered in the alternatives."

There are limited references available that pertain specifically to Drakes Estero, thus, NMFS recommends that best available scientific literature include information from other, similar geographic areas, where it is logical to infer similar results; such literature should not be treated as not meeting a scientific standard. There is an abundance of scientific literature addressing oyster growing in esteros and estuaries, with similar, if not the same, species addressed including Pacific oyster, eelgrass, harbor seals, etc. NMFS provides some references and can provide additional references. In the absence of available geographically-specific scientific literature, NMFS encourages the NPS to utilize such similar sources of information.

Chapter 4, Page 234, Baseline for Comparison

The DEIS states that "...the term "baseline" refers to the condition against which a change is being compared for assessment of impact in this EIS. It should not be confused with other definitions of the term." The baseline against which the no-action alternative is assessed is generally existing conditions. This is consistent with DOI regulations guiding the implementation of NEPA, which state:

"The analysis of the effects of the no-action alternative may be documented by contrasting the current condition and expected future condition should the proposed action not be undertaken with the impacts of the proposed action and any reasonable alternatives."

However, the description continues "The action alternatives, on the other hand, are generally using the no-action conditions as the baseline condition. In other words, the analysis of the action alternatives may be documented by contrasting the expected future conditions under each action alternative to the expected future conditions under the no-action alternative."

This approach to the defining of, and comparing alternatives to different baselines, is unusual. It is common practice in NEPA documents to compare all alternatives to one baseline defined as existing conditions. NMFS questions whether it is appropriate to compare the impacts of one alternative to one baseline, and then compare impacts of other alternatives to a different baseline in the DEIS. NMFS recommends all the alternatives be compared to the existing conditions baseline. Please see sections 1502.14, 1502.15, and 1502.16 in the CEQ regulations at: http://ceq.hss.doe.gov/ceq regulations/regulations.html.

Chapter 4, Page 235, Duration of Impact

NMFS recommends modification of the methodology to consider the extent to which adverse impacts are reversible. The methodology for assessing impacts that is described in Chapter 4 defines long-term impacts as any impact lasting longer than 1 year. This breakout between short- and long-term impacts is not useful in terms of evaluating the ability of natural systems to recover from any effects incidental to ongoing operations of DBOC over a 10-year period – e.g., effects on eelgrass from boat traffic or presence of gear on the site. Permit conditions could minimize impacts on eelgrass, and mitigation measures could accelerate recovery from any scarring or other effects incidental to

operations. NMFS is interested in working with NPS to develop appropriate permit conditions and mitigation measures.

Chapter 4, Page 236
"Alternative A: All 95 racks would be removed, including approximately 4,700 posts (2-inch by 6-inch boards) and more than 179,000 linear feet (approximately 5 miles) of pressure-treated lumber would be removed (this is anticipated to take one to two months outside the harbor seal pupping season, March 1 to June 30)."

The EIS should provide information regarding the impact to removing the 95 racks, including the timing, the type of equipment necessary to remove the racks, etc. These activities should be assessed to determine potential impacts to harbor seals.

Note: Since Alternatives B, C, and D have similar, if not identical impacts, all comments for Alternative B are applicable to C, D, and E.

Chapter 4, Page 237
"Closure of the lateral channel during the harbor seal pupping season (March 1–June 30). Maintenance of a 100-yard buffer from any hauled-out harbor seal."

NPS should provide an analysis of how closure of the lateral channel during the pupping season would decrease the potential risk of disturbance to harbor seals. NPS should discuss the potential impacts of closing the lateral channel if other areas receive higher traffic and discuss the potential impacts of the proximity of harbor seal haul outs to boat traffic areas (i.e. could other harbor seal areas be impacted during the pupping season). In addition, the 100-yard buffer may need to be reviewed. NMFS offers its expertise on this matter and would support mitigation measures that would limit activities during pupping season (which is very similar to mitigation measures NMFS requires for MMPA incidental take authorizations).

Chapter 4, Page 241, Human-cause Noise Sources (Other than DBOC)
"Other ongoing sources of noise in the Estero (DBOC-related noise is evaluated as an impact topic) such as overflights and use of cars along Sir Francis Drake Boulevard, has the potential to impact resources in and around the project area. These actions could impact wildlife and wildlife habitat (seals and birds), soundscapes, and visitor experience and recreation."

NPS should provide further details regarding overflights and how they may impact seals (i.e. potential noise levels, height of aircraft, etc.).

Chapter 4, Page 242, Planning and Management Activities
" Past, present, and future planning and management activities at the park include the following projects/activities: New GMP, Adapting Drakes Beach Visitor Access Facilities to Accommodate Anticipated Coastal Change to Improve Natural Coastal Process, Abbotts Lagoon Coastal Dune Restoration Project, Regular trail maintenance, Approval of research permits. These actions could impact eelgrass, wildlife and wildlife habitat

(harbor seals and birds), special-status species, soundscapes, wilderness, visitor experience and recreation, and NPS operations."

If "take" of harbor seals may occur as a result of these management activities, NPS should contact NMFS to determine if an MMPA incidental take authorization is needed.

Chapter 4,, Page 243, Expansion of Mariculture within Humboldt Bay, California (under Past, Present, and Reasonably Foreseeable Actions in the **CUMULATIVE IMPACT ANALYSIS METHODOLOGY Section)**
The DEIS discusses the potential Humboldt Bay Harbor, Recreation and Conservation District's pre-permitting studies for possible expansion of shellfish leases in Humboldt Bay, which has been awarded a $200,000 grant from the Headwaters Fund. It is unclear why a project that is not within or even remotely near Drakes Bay Estero is included in this section. While Humboldt Bay growers may provide up to approximately 70% of CA's oysters, the fact remains that CA growers are not able to meet demand. Bottom leases from the State of CA are in a state of flux as the Fish and Game Commission updates the bottom lease template; current growers in the Point Reyes area have not been able to expand their operations and are unable to meet demand, whether it is localized or not. As has been discussed, seafood demand far exceeds the United State's ability to meet it. The United States imports 84% of our seafood, and about 50% of that is met through imports of foreign (and often unregulated) aquaculture products. It is inaccurate to assume that growers in the Point Reyes area could increase their production to make up for the loss of DBOC, or employ former DBOC employees, as their operations aren't able to expand currently (J. Finger, Hog Island Oyster Co., pers. comm. 2010). Similarly, it is unrealistic to assume that the Humboldt Bay proposed shellfish expansion, if permitted, could compensate for the loss of DBOC at the local level. The positive impacts of an expanded Humboldt Bay shellfish industry would not provide economic benefits to the local businesses and employees in the Point Reyes area, provide tourism dollars to the Point Reyes local economy, nor satisfy localized demand for oyster products - it would potentially provide economic benefits to the Humboldt County area.

Chapter 4, Page 244, CDFG Marine Life Protection Act Initiative
"The Estero de Limantour SMR prohibits take of any living marine resource (CDFG 2010c)."

NPS should provide a definition for the term "take" as it is used in this context.

Chapter 4, Page 244
"Under the MMPA, if an activity is determined to be harassment under the above criteria, a specific permit called an Incidental Harassment Authorization may be required."

The activities that may cause marine mammal behavioral disturbance or harassment need to be analyzed and NMFS should be contacted to discuss the possible issuance of an Incidental Harassment Authorization.

Chapter 4, Pages 250-259, Impacts of Alternatives A, B, C, and D, Impact Analysis, Wetlands

The DEIS cites Bullard, Lambert, et al. 2007, in stating that the removal of "...up to 142 acres of bags, racks, and other shellfish cultivation equipment from Drakes Estero would also reduce the potential introduction of noxious species such as the exotic tunicate *Didemnum*, which has been shown to displace habitat for naturally occurring benthic organisms around the commercial shellfish operations infrastructure." It is important to note that none of the sites surveyed in this reference included any sites in Drakes Estero or neighboring shellfish operations in the vicinity. While it is wise to manage shellfish operations to avoid the introduction of such exotic species, this can be addressed by use of best management practices in the shellfish industry. Some efforts that may be effective in removing other fouling organisms from aquaculture gear and shellfish stocks include dessication and mild acid dips. Careful management practices could also potentially limit spread of noxious species. NMFS is willing to work closely with DBOC and the NPS to identify and assure implementation of best management practices at the DBOC operation.

NMFS believes that the habitat value of shellfish aquaculture gear has not been adequately addressed in the DEIS. NMFS refers the NPS to Dealtris, Kilpatrick, and Rheault (Dec. 2004), who's findings indicate "...that shellfish aquaculture gear provides habitat for many organisms throughout the year, and is especially beneficial to ecosystems that support native species of recreationally and commercially important fish and invertebrates in their early life stages." They conclude that "...shellfish aquaculture gear has substantially greater habitat value than a shallow nonvegetated seabed, and has habitat value at least equal to and possibly superior to submerged aquatic vegetation." In another paper by the same authors, they determined that shellfish aquaculture gear provides a structured habitat protecting juvenile fish from predation as well as substrate for some forage species that fish and invertebrates feed upon. The authors found significantly higher organism abundance and higher species diversity in shellfish aquaculture than in submerged aquatic vegetation, and thus they conclude that shellfish aquaculture gear had habitat value equal to or possibly greater than submerged aquatic vegetation (Dealteris, Kilpatrick, and Rheault 2007).

NMFS recommends a more detailed examination of the various sources of impacts to the wetlands of Drakes Estero, in addition to addressing the impacts from DBOC, in order to fairly assess sources and degree of impacts relative to DBOC. Dumbauld et al. 2009 point to the fact that water quality is impaired in some West Coast shellfish growing areas, but that this is more often due to presence of fecal coliforms. Additionally, NMFS suggests that the NPS further examine park visitor traffic and recreational activities as it relates to wetland impacts; in particular, the effects of kayakers in Drakes Estero, the effects of launching kayaks from wetland areas, and potential foot-traffic trampling on wetland plants and mudflats.

The water quality benefits from oyster growing in Drakes Estero should be described in greater detail. The resilience of Drakes Estero – the ability to withstand and recover from a variety of naturally occurring and human induced actions –should be described in terms of all potential impacts. Additional references would enhance the assessments in this

section. Dumbauld et al. 2009 states that "...bivalve aquaculture does not remove area from the estuary or degrade water quality, and thus is less likely to undermine resilience." They go on to suggest that bivalve aquaculture hasn't been linked to "...reduced adaptive capacity of the larger ecological system."

Overall, NMFS views shellfish aquaculture as an environmentally sustainable activity in Drakes Estero and encourages the NPS to provide more in-depth information regarding to what degree other human activities, in addition to the already described activities, have the potential to degrade the ecosystem health of Drakes Estero, including impacts from park visitors/recreationists.

Chapter 4, Page 262-272, Impacts of Alternatives A, B, C, and D, Impacts on Eelgrass

NMFS suggests that the NPS provide a more in-depth analysis of the ecosystem services provided by oyster culturing, in terms of beneficial impacts to eelgrass. The DEIS focuses on negative impacts and appears to have overlooked much information regarding the beneficial ecosystem services provided by oyster culture that are evident in the DEIS references.

The DEIS refers to use of aerial photographs of eelgrass scarring – since the NPS did not utilize over 200,000 digital photographs of harbor seal activity in Drakes Estero, due to the fact that these photos did meet the NPS protocol or standard for "scientific evidence", the NPS should explain the protocol or standards that allow the use of these aerial photographs but preclude the use of the other photo database.

The DEIS suggests that Alternative A (No Action Alternative) would result in long-term beneficial impacts on eelgrass habitat. However, the NAS report (2009) states that "Nevertheless, removal of the Pacific oysters and nonnative clams under culture and all the structures used in the culture process would carry the consequences of removing the direct and indirect influences of the biochemical processes now provided by the filtration, excretion, and biodeposition of the shellfish and the influences of structural substrates of the oysters and the racks and bags that now hold them." Please see comments and references in the **Impacts on Wetlands** section, above. Additionally, the NAS report suggests that even though the estero has excellent water quality due in part to a strong tidal flux, the filtration provided by the cultured oysters likely lowers turbidity, which is beneficial to eelgrass production. Kaiser (2001, *in* NAS 2009) also suggests that shellfish cultivation processes have "...a generally positive influence on the overall water quality of a system." Beneficial water quality effects from shellfish culturing provides buffering from events such as storm turbidity or phytoplankton blooms, resulting in enhanced water quality and clarity, and potentially increased light penetration (DeAngelis, 1986 *in* NAS 2009, Rice 2001, Connecticut Sea Grant 2009/2020), which in turn promotes the growth and spread of eelgrass. Further, the NAS report clarifies that many populations of seagrass along the west coast demonstrate an increased abundance trend, including Drakes Estero.

Typically, eelgrass is absent directly under the oyster culture structures, but it appears the scale of these losses is tied directly to the scale and density of the structures, resulting in small reductions in eelgrass density and cover (NAS, 2009). The overall small-scale culturing footprint of DBOC "...suggests that these effects would be localized." In fact, the NAS report states that the estimate of eelgrass loss from propeller scars is less than 8% of total eelgrass cover (NPS, 2007e; Brown and Becker 2007 *in* NAS 2009). The amount of eelgrass in Drakes Estero appears to have approximately doubled over the years of oyster cultivation in the estero. While there are localized impacts from eelgrass coverage under the areas of oyster cultivation, the overall health of eelgrass in the estero appears to be very good, apparently owing largely to the tidal flux and good water quality. Without the water quality and filtration benefits from the oyster culturing in Drakes Estero (which pre-dates NPS presence), NMFS questions whether the current health of eelgrass would be as good. In fact, when compared to eelgrass beds in the Estero de Limatour, which has no oyster culturing, AMS (2002) found that sites in Drakes Estero showed higher eelgrass blade counts, again suggesting the beneficial effects of oyster culturing on eelgrass in Drakes Estero.

Chapter 4, Page 286-293, Impacts on Wildlife and Wildlife Habitat: Fish Alternatives A, B, C, and D

As described above, in the **Eelgrass** section, it appears that the health of Drakes Estero and its abundant eelgrass beds may be benefitting from the oyster culture being conducted there. There are no records in NMFS' files to indicate that DBOC is impacting the eelgrass to the degree that the eelgrass is not healthy, or that fish species of NMFS' concern are negatively impacted, including ESA-listed salmonids, nor does it appear there are significant impacts to EFH in Drakes Estero overall. The water quality and filtration services from oyster cultivation appear to support healthy eelgrass populations, and thus provide habitat and cover for fish typically found in Drakes Estero. Please see the additional comments and references in the **Eelgrass** section.

Chapter 4, page 294, Methodology

"This section summarizes the impacts on Pacific harbor seals from the actions that would potentially occur under each alternative. In consideration of the populations of harbor seals found within the project area as discussed in chapter 3, impacts are evaluated in the context of the type of impact (direct, indirect), the nature of the impact (i.e., type of disturbance to wildlife and wildlife habitat), the quality and amount of harbor seal habitat impacted, and the potential for risks posed by proposed actions (e.g., introduction of nonnative species)."

The NPS reports on harbor seals are not referenced as a data source in this document.

Chapter 4, page 295, Impacts of Alternative A

"The elimination of DBOC boat traffic (up to 12 trips per day, six days per week), especially during harbor seal pupping season (March 1 through June 30), coupled with ongoing restrictions on recreational access during the same time, would likely result in beneficial impacts on harbor seals by reducing human disturbance and displacement effects during important harbor seal reproductive periods (Suryan and Harvey1999)."

NMFS believes that the removal of the oyster facility should be considered an action. The no-action alternative would leave activities at the current level and should be analyzed as such for this EIS. NPS should describe the potential beneficial impacts expected by reducing human disturbance and displacement effects. Typically, as a minimization measure in our permits, NMFS does take into consideration a reduction or elimination of activities that may impact seals during pupping season. It is not clear from this document what activities may cause take of harbor seals, as defined under the MMPA. NMFS offers our expertise to NPS to help address potential disturbance to seals. The DEIS does not consider what impact elimination of oyster activities or recreational activities may have on deterring other possible impacts to harbor seals (*i.e.,* does the presences of humans deter potential predators to harbor seal; would the cessation of oyster activities increase the number of coyotes that could predate pups?).

"Becker, Press, and Allen (2011) show harbor seal haul-out areas documented in the Estero, including along the entire lateral channel in the central portion of Drakes Estero. Discontinuing operations would remove bags and boat traffic from this area, allowing for potential expansion of use areas by the seals."

The west and middle areas of the lateral channel are shallow and full of dense eelgrass (as another map in the draft EIS clearly shows).The harbor seals haul out where they have hauled out for many years – from the deep east end of the lateral channel onto a large beach. It is recommended that the document describe suitable habitat for harbor seals, determine whether this suitable habitat is available in the Estero, whether there has been historical use of these areas prior to anthropogenic impacts, etc. It is difficult to predict whether harbor seals would colonize a new area, but if the habitat has characteristics that have been shown to be important components of harbor seal haul-out sites, those areas should be described and mapped.

Chapter 4, page 296, Impacts of Alternative A

"Due to the removal of potentially disruptive activities associated with DBOC within Drakes Estero, alternative A would be expected to result in beneficial impacts on harbor seals. Removal of shellfish infrastructure from within Drakes Estero may require the use of motorboats for a period of up to two months. This disturbance would continue to generate the human-caused noise that currently disrupts harbor seals, but would be conducted outside of the harbor seal pupping season to minimize adverse impacts."

NMFS recommends that these disturbances should be characterized and described in more detail in the document with references provided.

"Under alternative A, NPS would install a gate to prevent all boat-related recreational access to Drakes Estero during harbor seal pupping season (March 1- June 30 annually). The placement of a locked gate restricting boat access to Drakes Estero during pupping season would be an effective deterrent, preventing adverse impacts on harbor seals from boat use during pupping season."

NPS should provide information as to why a locked gate would not be possible for any of the other alternatives.

"This restriction on recreational access to Drakes Estero would be expected to have beneficial impacts on harbor seals. As described above, alternative A would result in long-term beneficial impacts on harbor seals because of the reduced disturbance to seals that would result from the termination of DBOC operations and associated human activities within Drakes Estero. Alternative A may also result in short-term minor adverse impacts because while impacts to harbor seals would continue, the impacts associated with rack removal would be localized and slightly detectable, and would not affect the overall structure of the natural community."

The long-term beneficial impacts need to be described and evidence needs to be provided.

Chapter 4, page 296, Cumulative Impact Analysis
"Past, present, and reasonably foreseeable future actions have the potential to impact harbor seals and harbor seal habitat within the project area. These actions include kayaking, planning and management activities, and the CDFG MLPA initiative."

Details on the planning and management activities need to be provided and what component of those activities that may impact harbor seals needs to be analyzed.

"While harbor seal disturbances could still occur outside of the pupping season, such disturbances are less likely to have population-level effects during that time of year. "

NPS should provide a reference for the implication that disturbances are having population –level effects and/or that adverse population-level effects have been documented at the Estero.

"Some limited use of motorized boats within Drakes Estero may take place for research or administrative purposes."

NPS should specify the research and administrative purposes that may impact harbor seals as it is difficult for NMFS to determine based on the information provided whether or not an MMPA Incidental Harassment Authorization (IHA) may be necessary.

Chapter 4, page 297, Cumulative Impact Analysis
"Alternative A, in combination with the MLPA would result in only recreational clamming allowed within the Estero, thus reducing potential disturbance-related impacts."

NPS should analyze and discuss the potential disturbance to harbor seals caused by recreational clamming and describe how these potential disturbances would be managed.

Chapter 4, page 297, Alternative A, Conclusion

"Disturbance would be limited to recreational kayakers, hikers on the adjacent landscape, and aircraft."

NMFS recommends that these disturbances be described in detail and impacts to harbor seals analyzed.

"The cumulative impact would be long-term beneficial, and alternative A would contribute an appreciable beneficial increment to the overall cumulative impact. With respect to harbor seals, alternative A is consistent with relevant law and policy because removal of DBOC operations from Drakes Estero would remove an unnatural stimulus that currently affects harbor seal behavior. Additionally, the decrease in disturbance to this species would be consistent with MMPA (16 USC 1361 et seq., 1401–1407, 1538, 4107)."

NMFS recommends providing additional information on which relevant laws and policies are referred to in this statement and how these are consistent with the requirements of the MMPA for harbor seals.

Chapter 4, page 297, Impact Analysis, Alternative B
"Continued boat traffic DBOC operations would continue to be subject to the harbor seal protection protocol as part of the SUP. This protocol prohibits boat travel and general operations, including placement of bags, moorings, and installation of floating racks, within the established harbor seal protection areas (see figure 3-5). Other restrictions contained in the existing protocol, such as closure of the lateral channel (also shown on figure 3-5) during the harbor seal pupping season (March 1–June 30) and maintenance of a 100-yard buffer from any hauled-out harbor seal, would continue to be in effect."

This analysis when compared to Alternative A's impact analysis is confusing as many details are missing from each analysis. NMFS suggests improving the impact analysis for comparative purposes.

Chapter 4, page 298, Impact Analysis, Alternative B
"Under alternative B, the current setback requirement of 100 yards from any hauled out seal (MMPA) would be retained. While the NAS 2009 indicates that larger setbacks are used in Europe, this setback is based, in part, on the MMPA standard, the scale of the Estero, and the ability of DBOC staff to reasonably see and recognize a hauled-out harbor seal."

It is not clear what MMPA standard is being referred to here, as a requirement of maintaining at least a distance of 100 yards from harbor seals is not a requirement or a standard under the MMPA. If take occurs, than an IHA may be needed. If NPS wants to establish a set distance to avoid take, then NPS should work with NMFS to evaluate what distance would be appropriate.

"Lastly, there may be impacts on harbor seals related to underwater sounds produced by DBOC based on previous research on other marine mammals (NAS 2003). Alternative B would result in long-term moderate adverse impacts on harbor seals for another 10 years due to displacement effects within Drakes Estero of human activities associated with DBOC's operation and the potential for disturbances that are known to disrupt harbor seal behavior and displace seals. These impacts would be clearly detectable."

NPS should provide detailed information on underwater sound produced by DBOC and analyze how it may impact harbor seals, including thresholds for a temporary threshold shift or permanent threshold shift. If masking could occur, NPS should provide information and analysis to determine the impacts of the masking. Based on the analysis in the DEIS it is not clear if there are impacts related to underwater sound or if there may be impacts. NPS should provide information on whether masking has been documented in the monitoring. In addition, in order to support the statement that impacts would be clearly detectable the EIS needs to provide specifics on how these impacts would be detected (monitoring, what thresholds would be used, etc.). If the impacts can be clearly detected, NPS should describe the research study that demonstrated detection of impacts.

Chapter 4, Page 294-303, Impacts on Wildlife and Wildlife Habitat: Harbor Seals, Alternative A, B, C, and D

NMFS notes that, with development and implementation of an interagency harbor seal protocol in 1992 at the site of DBOC, there has been no documentation in NMFS' files regarding disturbance of harbor seals related to operation of DBOC. In addition, there have been no reported violations of MMPA or law enforcement investigations on record. There does not appear to be any evidence of population-level effects from disturbance of the harbor seals in Drakes Estero; the estero's harbor seal population appears stable and healthy. NMFS encourages the NPS to expand the analysis to carefully examine and disclose other sources of disturbance to this seal population, including but not limited to kayaks landing on the sandbar haul-out area and general kayak activity in the estero, along with documentation of NPS enforcement of MMPA requirements with park visitors. In addition, NMFS recommends that NPS expand the analysis to examine populations of harbor seals at other locations that are subject to human disturbance for comparison.

NMFS understands that the Marine Mammal Commission (MMC) convened a panel to review the science used by the NPS in analyzing the Drakes Estero harbor seals, and that a report from the MMC should be forthcoming. NMFS recommends that completion of the final EIS be delayed until this report is available to the NPS and the public, so that the information in the report can be incorporated into the analysis by NPS and is made available to all parties reviewing the DEIS.

Chapter 4, Page 314-328, Impacts on Special Status Species, Alternatives A, B, C, and D, Central California Coho Salmon Critical Habitat, Central California Steelhead

Please see comments regarding Fish, above. NMFS has no documented concerns regarding DBOC related to potential impacts to Central Coho Salmon Critical Habitat or Central Valley Steelhead.

Chapter 4, Page 316
"During DBOC close out procedures, however, there would be an increase in traffic along the access road, as property and debris are removed from the site. This may cause a temporary increase in risk of vehicle strikes. This close out process is likely to take place outside the seasonal seal closure and last up to two months."

This implies that vehicles may strike harbor seals.NPS should clarify how this is related to the harbor seal closure and how this may or may not benefit harbor seals.

Chapter 4, Page 321
" In addition, under alternative B, the NPS would not install a gate to enforce seasonal closures to recreational access to Drakes Estero during harbor seal pupping season. Thus, traffic levels over the access road would be expected to continue at current levels."

As previously noted it is not clear why the gate cannot be installed and provide needed access when necessary during the harbor seal pupping season if installation of the gate is intended to regulate human water use near rookeries in the Estero.

Chapter 4, Page 337-349, Impacts on Water Quality Alternatives A, B, C, and D
Please see comments above in the **Wetlands** and the **Eelgrass** sections. In addition, NMFS suggests that the broader water quality issues described in this section can be addressed in partnership. The NPS, NMFS, CA Department of Fish and Game, California Coastal Commission, and Regional Water Quality Control Board can effectively work together with DBOC to formulate permit conditions and best management practices to address the issues and improve water quality conditions in Drakes Estero. NMFS is available to provide expertise in such an effort.

Chapter 4,Page 354
"Offshore noise-generating operations would include continued motorboat traffic in Drakes Estero."

Although the EIS does provide information regarding dBA levels, these dBA levels do not not specify the distance these sound emitters could operate compared to where seals are expected to haul out (i.e. what the received level from the sound source may be at the haul out sites) and how it corresponds to thresholds of 90dBA for in-air for harbor seals.

Figure 4-2 shows how sounds would dissipate from a pneumatic drill operating on the dock at the onshore facilities. Two noise contour levels were selected for these maps.

NMFS recommends this figure include harbor seal haul out sites to determine if there is any potential for overlap.

Table 4-2. Figure 4-1 and Figure 4-2

NPS should provide additional information describing how the noise generated and the propagation from the sound source was estimated or modeled.

Chapter 4,Page 359
"Negative population-level, behavioral, and habitat-use consequences of higher ambient sound levels from human voices, along with sound events associated with human activities (motorists, hikers), have been observed in many species (Frid and Dill 2002; Habib, Bayne, and Boutin 2007). Human activities can disturb harbor seals at haul-out sites, causing changes in harbor seal abundance, distribution, and behavior, and can even cause abandonment (Suryan and Harvey 1999; Grigg et al. 2002; Seuront and Prinzivalli 2005; Johnson and Acevedo-Gutierrez 2007). Finally, demolition of the damaged main dock and construction of the proposed dock would require the-temporary use (less than one month assuming six days per week, 8 hours per day) of heavy vehicles, which typically emit sound levels between 60 and 80 dBA, depending on which equipment is necessary-(FHWA 2006). This would cause a temporary adverse impact on the natural soundscape."

NPS should indicate whether it expects that these sound sources would be perceived by the harbor seals and describe the potential impacts .

Chapter 4,Page 360
"The use of heavy machinery would be at a level that would cause vocal communication to be difficult at distances of less than 16 feet."

NPS should provide information on the proximity of this activity to the seals and whether it is assumed that there will be no auditory damage to seals' hearing. In addition, NPS should provide information on whether this may result in masking. NPS should describe in detail any potential impacts to the seals of the visual component of the machinery or activities, which may cause seals to flush from haulout areas.

Chapter 4, Page 368, Impacts on Wilderness Alternative A, B, C, and D
The DEIS mentions that human activities can cause disturbance of harbor seals and changes in harbor seal behavior, distribution and abundance, and even site abandonment. It would be useful for the NPS to report on (or conduct a study if it hasn't been addressed) the effects of human activities in Drakes Estero to harbor seals, beyond the effects from DBOC. The park has high visitation from various sectors of the public, among those are hikers and kayakers in the vicinity of DBOC. The kayak launch is adjacent to DBOC; it seems likely that kayakers could also unintentionally disturb harbor seals while kayaking in the estero. Information on rates of harbor seal disturbance correlated to park visitors and their activities would be most informative and would add to the body of knowledge regarding overall harbor seal disturbances.

The DEIS states that as discussed in greater detail under the impact topic of soundscapes, a motorboat in Drakes Estero produces a sound of 71 dBA at 50 feet (Noise Unlimited,

Inc. 1995). On a calm day, it may take over 3,200 feet (0.6 miles) for this sound to dissipate to natural sound levels. NPS should explain how this distance was calculated.

Chapter 4, Page 373
"Additionally, the generation of noise by DBOC operations, both onshore and within Drakes Estero, would have the potential to disturb birds and harbor seals."

NPS should provide additional information on which activities would generate the noise.

Chapter 4, Page 381, Impacts on Visitor Experience and Recreation
The DEIS states that approximately 50,000 people visit DBOC annually. Oyster culturing in Drakes Estero pre-dates the park presence. There is a long cultural history of oyster culturing in Drakes Estero that is not adequately addressed in the DEIS. Please see comments in the **Cultural Landscapes** section. NMFS recommends that the NPS expand this discussion in both sections.

The DEIS states that the gate would prohibit motorized boat access to the water during certain times, but would allow visitors to access Drakes Estero on foot. The proposed gate would allow visitors to access the site outside harbor seal pupping season (between July 1 and February 28). NMFS recommends providing this information in previous sections describing Alternative A as visitor access on foot should be analyzed or discounted for potential disturbance to harbor seals.

Chapter 4, Page 389-402, Impacts on Socioeconomic Resources, Alternative A, B, C, and D
The DEIS identifies a localized economic impact if DBOC is removed from Drakes Estero. Consistent with the NOAA National Aquaculture Policy, NMFS supports the development and maintenance of sustainable marine aquaculture. In a down-turned economy, the localized loss of jobs as well as the localized and statewide reduction in the availability of oysters, may be more significant than is represented in the DEIS. With up to 34% of oyster production in CA coming from DBOC, the removal of DBOC would be significant. The DEIS notes the potential permitting of a Humboldt Bay shellfish expansion proposal and assumes that such expansion can compensate for the loss of oyster availability from DBOC, should it be removed. This is a potential long-term outcome, but only if the proposal is successfully permitted. Initial feasibility studies are just getting underway for the Humboldt Bay shellfish expansion proposal and any actual permitting, leasing of shellfish growing areas, and availability of product is not realistic in the near future. In addition, such potential expansion does not benefit the local economy of the Point Reyes area. Potential jobs created in Humboldt Bay will not benefit displaced workers from DBOC, nor will the sale of Humboldt Bay shellfish benefit the Point Reyes area. Potential DBOC visitors will not inject funds into the local economy nor provide benefits to local tourism that is currently afforded. Please also see comments in the **Expansion of Mariculture within Humboldt Bay, California** section above.

CORRESPONDENCE ID: 51998

2011 DEC -9 PM 2:13
POINT REYES NS

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

DEC - 8 2011

DBOC SUP EIS
c/o Cicely Muldoon, Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, California 94956

Dear Ms. Muldoon:

In a letter dated November 17, 2011, NOAA's National Marine Fisheries Service (NMFS) provided comments on the National Park Service's Draft Environmental Impact Statement (DEIS) for Drakes Bay Oyster Company (DBOC) Special Use Permit (SUP), September 2011. NMFS provides the following points of clarification regarding our previous comment letter:

- NMFS' statement regarding impacts of DBOC operations on Essential Fish Habitat (EFH) in Drakes Estero was based on an initial review of information provided in the DEIS. NMFS will make a final determination regarding effects to EFH following a thorough evaluation of adverse effects to EFH completed as part of an EFH consultation for the proposed action pursuant to the EFH provisions of the Magnuson-Steven Fishery Conservation and Management Act.

- NMFS does not exclusively endorse the findings in Dealteris *et al.* (2004), but recognizes this information is part of the scientific literature available on the subject of aquaculture.

- NMFS does not have information indicating that water quality effects from the DBOC operations benefit the overall health of eelgrass in Drakes Estero. Similarly, NMFS does not have information suggesting that eelgrass would be harmed should DBOC operations cease.

Please consider these clarifying comments in conjunction with the NMFS November 17, 2011, comment letter.

In addition, although NMFS was unable to complete an extensive review of the recent Marine Mammal Commission (MMC) Report on Mariculture and Seals in Drake's Estero, NMFS supports the MMC's recommendation to conduct additional harbor seal disturbance studies and offer our expertise in the development of future study design and potential management/adaptive management plans that could be informed by these future studies.

Again, we thank you for the opportunity to comment on the National Park Service's DEIS and look forward to reviewing the final EIS. If you have any questions regarding these comments, please contact Korie Schaeffer, 707-575-6087, Korie.Schaeffer@noaa.gov, Diane Windham, 916-930-3619, Diane.Windham@noaa.gov, or Monica DeAngelis, 562-980-3232, Monica.DeAngelis@noaa.gov.

Sincerely,

Kevin Chu

for Rodney R. McInnis
Regional Administrator

Dear Drakes Bay Oyster Farm Supporter,

Thank you for your continued patronage and support of Drakes Bay Oyster Farm. The grassroots support group for the farm, the Alliance for Local Sustainable Agriculture (ALSA), www.alsamarin.org, has announced that the National Park Service has published the draft Environmental Impact Statement to inform the Secretary of the Interior whether or not to allow the oyster farm to continue after 2012. The **only** time the public has a say in this important issue is during this last "public comment period", going on right now! **Comments must be received by NPS prior to midnight Mountain Time, November 29, 2011!** The NPS "Comment Form" is provided below, for your convenience.

"I support a renewable Special Use Permit for Drakes Bay Oyster Company" is the single most important comment you can make. To this end, we have included it in the "Comment Form" (below). We respectfully ask for your help in saving the farm by simply:

1. filling out the "Comment Form",
2. cutting along the dotted line and,
3. mailing your comments by **November 29th** to: Draft EIS DBOC SUP c/o Superintendent
   Point Reyes National Seashore
   1 Bear Valley Road
   Point Reyes Station, CA 94956

Alternatively, you may submit your comments online by going to: http://parkplanning.nps.gov/commentForm.cfm?documentID=43390.

If you wish to attach additional comments, please feel free to do so. You may visit ALSA's website for other suggested topics to comment on (www.alsamarin.org). For more up-to-date news and info, visit www.oysterzone.wordpress.com.

With Our Heartfelt Gratitude for Your Support Through the Years!

----------cut here----------

Comment Form

Park: Point Reyes National Seashore

Project: Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement

Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

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* indicates required fields

City:* [redacted] State/Province:* [redacted]

Postal Code:* [redacted]

First Name: x Guadalupe Middle Initial: _____

Last Name: x Arriaga Ramirez

Add[redacted]

Cou[redacted]

Email: _____

(Check here if you want your contact information kept private.)

Comments or Requests:

I support a renewable Special Use Permit for Drakes Bay Oyster Company.

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POINT REYES NS