

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: *

State/Province: *

Postal Code: *

First Name: Jeff

Middle Initial: D

Last Name: Herriman

Address:

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.

POINT REYES NS

2011 NOV 21 PM 3:16

RECEIVED

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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: DAVID WERUM

Middle Initial: [Redacted]

Last Name: [Redacted]

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.

THIS IS AN EXCELLENT, TRADITIONAL USE THAT DOES NO HARM TO DRAKES BAY ESTERO. IT SHOULD BE ALLOWED TO CONTINUE.

POINT REYES NS
2011 NOV 21 PM 3:16
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City:* [REDACTED]

State/Province:* [REDACTED]

Postal Code:* [REDACTED]

First Name: KEN

Middle Initial: _____

Last Name: POLLARD

Address:

Country:

Email:

[REDACTED ADDRESS AND CONTACT INFORMATION]

POINT REYES NATIONAL SEASHORE
2011 NOV 21 PM 3:16
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Comments or Requests:

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City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Duane

Middle Initial: E

Last Name: Roots

Address: [Redacted]

Country: [Redacted]

Email: _____

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

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City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Beverley

Middle Initial: W

Last Name: Wilmon

Address: [Redacted]

Country: [Redacted]

Email: [Redacted]

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

Comments or Requests:

The oyster farm for fresh local oysters is one of the reasons we travel to Point Reyes Area from Sausalito area. I support a renewable Special Use Permit for Drakes Bay Oyster Company. Don't destroy part of the regional history & color

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

POINT REYES INS
2011 NOV 21 PM 3:16
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Nov 15 2011

Mr. Secretary Salazar "FOR FAVOR"

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:16

POINT REYES NS

I am a supporter of President Obama and I voted for him because he would be fair to the protection of the wilderness we so love, not only for the environment but a legacy for time to come.

I have been in California all my life and have seen a ~~slow~~ deterioration of the wild life year by year by those who will exploit the California coast.

I am 83 years and work as a surveyor all my life - and participated in the encroachment of all that is good in preserving the land we live on.

THIS COMES TO MINE

① the Golden trout wilderness area Manacha ^{meadows} ~~meadows~~ our run by Range Battle, ^{RE} L.A. Time article in October.

Please Dont allow this RAPE OF POINT REYES NATIONAL SEASHORE.

GRACIAS, George A. Mattos

TRAKESTERO - need alternative A

George A. Mattos "8th Gen Californios"

DEC 09 2011

RECEIVED

2011 DEC 13 AM 11:21

POINT REYES NS

November 12, 2011

Secretary Salazar,

Please protect our only marine wilderness on the West Coast by supporting alternative "A" next year. Vote to uphold a deal made more than 30 years ^{ago} that was created in spirit of protecting ~~our~~ our vanishing marine wilderness areas. If we ignore our long-standing national parks and marine wilderness laws, I am concerned that private and special interest groups will find it easier and easier to circumvent these laws in the future.

Industrial system can be grown elsewhere; marine wilderness areas are becoming ~~an~~ irreplaceable. Please protect Drake's Estero!

Sincerely,

Wendy McCobb

WENDY MCCOBB



Dear Secretary Salazar, Nov. 17, 2011
I support wilderness designation for
Drake Estero in 2012 as promised
for over 30 years. I support alternative A.
This oyster company is damaging the
ecology of this irreplaceable
wilderness

Marlene J. Jones


DEC 09 2011

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2011 DEC 13 PM 2:24

POINT REYES NS

DEC 09 2011

RECEIVED

2011 DEC 13 AM 11:23

POINT REYES NS

Dear Secretary Salazar,

I would like to express my passion for an area that has been so rich to my experience for kayaking and Canyoning that I have heard may be at risk as a marine wilderness to protect as a valuable resource to our own way of living as respectful to the laws of nature. Please help us protect the Point Reyes National Seashore area in Northern California that could be under threat by commercial development. Thank you for this consideration.

Blessings, Charlotte

Charlotte J. Terrill

P.S. Please support alternative A, the environmentally preferred alternative.

Charlotte J. Terrill

Dear Secretary Salazar,
Please protect Drake's Estero
by supporting alternative "A"
The seabirds are struggling
for survival. They need your
help.

Thank you,

June Taylor
Santa Barbara Wildlife
Seabird Rehabilitation
Supervisor.

P.S. Seabirds are loosing their
habitats.

DEC 09 2011

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2011 DEC 13 PM 2:13

POINT REYES NS

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:23

POINT REYES NS

Dear Sec. Salazar,

If you allow Point Reyes (Drakes Estero) ^{destroying} to be destroyed, then you are the home of your ancestors, & the future for our children.

Support AEA for wilderness at Drakes Estero.

Jack Bernadette Lewis

BERNADOTTE McFARLANE

There is no replacement for marine wilderness estuary on the West Coast.

DEC 09 2011

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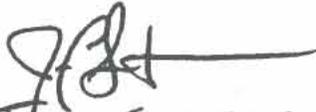
2011 DEC 13 PM 2:21

POINT REYES NS

HONORABLE SEC SALAZAR,

PLEASE SELECT ALT. A FOR DRAKES ESTERO
IN Pt. REYES. IT HAS BEEN TOO LONG
THAT WE HAVE FAILED TO ADEQUATELY
PROTECT OUR AQUATIC ENVIRONMENTS. THIS
IS ESPECIALLY TRUE OF EELGRASS.

THANK YOU,


JESSE SWANHUYSER



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orm

Point Reyes National Seashore

Subject: 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:*

First Name:

Jonathan

Middle Initial:

S

Last Name:

FISHER

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.



POINT REYES NS
2011 NOV 21 PM 3:14
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* indicates required fields

City:* [REDACTED]

State/Province:* [REDACTED]

Postal Code: [REDACTED]

First Name: DIANNEMiddle Initial: SLast Name: OKEEFE

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.

We have been this oyster company's customer for 50 years. We need them.

RECEIVED
 11 NOV 21 PM 3:17
 POINT REYES

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* indicates required fields

City:*



State/Province:*



Postal Code:*

First Name:

STEPHANIE

Middle Initial:

LEA

Last Name:

WITT

Address:



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.

Stephanie Witt

POINT REYES NS

2011 NOV 21 PM 3:17

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City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Bruce

Middle Initial: _____

Last Name: Ahlborn

Address: [Redacted]

Country: [Redacted]

Email: [Redacted]

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

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City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Roland

Middle Initial: L.

Last Name: Russell

Address: [Redacted]

Country: [Redacted]

Email: [Redacted]

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

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

Postal Code:* [redacted]

First Name: Carla Middle Initial: A

Last Name: Russell

Address: [redacted]

Country: [redacted]

Email: [redacted]

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

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POINT REYES NS

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

Postal Code:* [redacted]

First Name: Leigh Middle Initial: A.

Last Name: Diffenderfer

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.

Leigh Ann Diffenderfer

POINT REYES NS

2011 NOV 21 PM 3:15

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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: DENNIS

Middle Initial: M

Last Name: O'HAIR

Address: [Redacted]

Country: [Redacted]

Email: [Redacted]

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

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City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

Aileen & Stan

Middle Initial:

Last Name:

GULESSER IAN

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.

POINT REYES NS

2011 NOV 21 PM 3:15

RECEIVED

11/11/11

DEC 09 2011

RECEIVED

2011 DEC 12 PM 3:48

POINT REYES NS

Dear Secretary Salazar,

I feel that the Drakes Estero should be designated
wilderness status. I support alternative "A".

Drakes Estero is a beautiful place that deserves
protection. It would mean a lot to mean a
lot to me if you do. Oysters can be grown elsewhere,
but this place is special.

Thank you,

Ann Tan.



-cut here-

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City:*



State/Province:*



Postal Code:*

First Name:

ELINOR

Middle Initial:

S.

Last Name:

CREMMINS

Address:



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.

POINT REYES NS

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City:*



State/Province:*



Postal Code:*

First Name:

MARIANNE

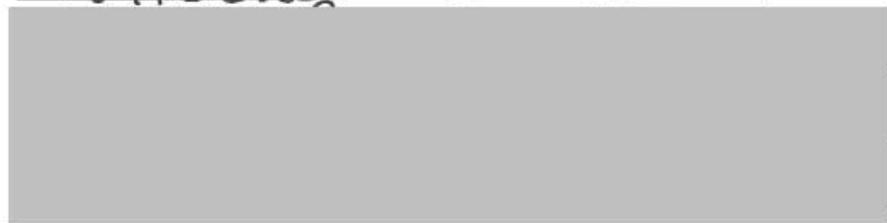
Middle Initial:



Last Name:

WHEELER

Address:



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.

POINT REYES NS

2011 NOV 21 PM 3:15

RECEIVED

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:20

POINT REYES NS

Dr Secretary Salazar,

Please make Drake Estero a wilderness area in 2012. Any other alternative would have long term impacts to the marine ecology there. Much eelgrass has already ^{been} damaged or displaced, reducing threatened species habitat.

Please support alt. A for
Wilderness.

Todd
Santamaría



Dear Secretary Salazar,

Please don't overtake this wilderness.

It's important to keep the last marine wilderness on the west coast because there will be no replacement. I support alternative "A" the environmental preferred alternative. Oysters can be grown elsewhere on different public lands. Drake's Estero is a wildlife refuge that is currently tarnished by industrial oyster operations.



Steven Toth

DEC 09 2011
RECEIVED
2011 DEC 13 PM 2:12
POINT REYES NS

Dear Secretary Salazar,

Please uphold the Wilderness Protection at Drakes Estero in Point Reyes that has been so long promised to the public. Please support Alternative A which has the least adverse impact on the ecosystem & restore the environment in accordance with the long range plan.

Thank you!

Sarah Willwood



RECEIVED
2011 DEC 13 AM 11:20
POINT REYES NS

DEC 0, 2011

SECRETARY SALAZAR - Please Help protect
Duques Estero in Pt Reyes by choosing
ALTERNATIVE A FOR WILDERNESS DESIGNATION
IN 2012

THANK YOU FOR PROTECTING THE HABITAT

OF THE ENDANGERED SPECIES FROM OYSTER OPERATION
IMPACT -

A DEAL IS A DEAL THE OYSTER CO KNOW
WHAT THE DEAL WAS WHEN THEY PURCHASE

THE PROPERTY
PLEASE LEARN TO LIVE WITH US ALL
THAT HAVE REQUESTS

Richard Turner



DEC 9 2011
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2011 DEC 12 PM 3:48
POINT REYES NS

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* indicates required fields

City:*



State/Province:*



Postal Code:*

First Name:

JAMES

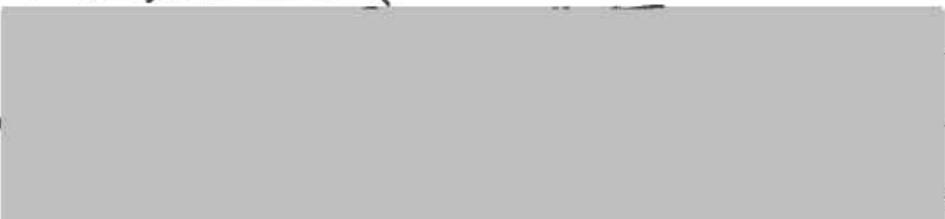
Middle Initial:

J.

Last Name:

WHEELER

Address:



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.

POINT REYES NS

2011 NOV 21 PM 3:15

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Secretary Salazar,

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:23

POINT REYES NS

I'm not very old and I have ~~still~~ a few years to go till I can formulate my own opinions with truth and validity. What I do know is that our environment is important to everybody, if we protect it here we would have more things in the world to appreciate it.

There is more dignity in conserving a natural treasure than buying / getting a ~~real~~ plastic / material something.

Charlette Trevino

Charlette

SECRETARY SALAZAR

THE IDEA OF DAMAGING THE POINT REYES DRAPER ESTERO REFUGE IS HARD TO UNDERSTAND. I SUPPORT ALTERNATIVE "A" HAVING LIVED IN THE BAY AREA FOR 28 YEARS, I VISITED THE POINT REYES AREA MANY TIMES. THERE IS NO OTHER PART OF CALIFORNIA'S COAST LINE LIKE THIS BEAUTIFUL AREA. IT IS TRULY ONE OF A KIND.

THIS COAST NEEDS PROTECTING. OYSTER FARMS CAN BE CREATED IN OTHER AREAS.

THANKYOU FOR YOUR CONSIDERATION

SHARON WILLIAMS



DEC 09 2011

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2011 DEC 13 PM 2:18

POINT REYES NS

15 September 2011

Superintendent
Point Reyes National Seashore
12900 Valley Rd
Point Reyes Station, CA 94956

DEC 09 2011
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2011 DEC 13 AM 11:20
POINT REYES NS

Secretary Salazar,

Americans deserve a protected wild area on the West Coast. Please uphold the wilderness protection as long promised to the public and designate marine wilderness next year.

I support alternative "A" which is the unbroken - mostly preserved alternative. Drakes Estero was always supposed to be protected next year. It is a wildlife refuge that is currently farmed by industrial oyster operations. Oysters can be grown elsewhere outside of public lands. The oyster company owned by [redacted] of the [redacted] next year for marine wilderness protection.

A deal is a deal. Please protect this national treasure as long intended.

Sincerely,
[redacted] Ashmore



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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: MICHAEL

Middle Initial: J

Last Name: KENNEDY

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.

MK
11/19/2011

POINT REYES
2011 NOV 21
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* indicates required fields

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

NOREEN

Middle Initial:

m

Last Name:

Kennedy

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.

POINT REYES NS

2011 NOV 21 PM 3:15

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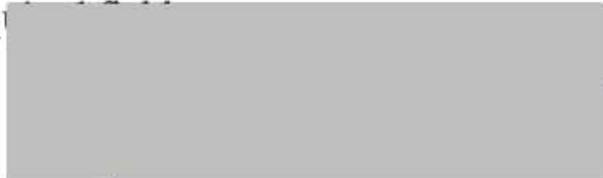
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* indicates required

City:*



State/Province:*

CA

Postal Code:*

First Name:

Joan

Middle Initial:

T.

Last Name:

Tack

Address:



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.

They have improved the Oyster operation and are helping the Bay. It was included in original set-up of Park.

POINT REYES NS

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* indicates required fields

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

MARNIE

Middle Initial:

Last Name:

TATTERSALL

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.

Yes

Yes!!

POINT REYES NS

2011 NOV 21 PM 3:15

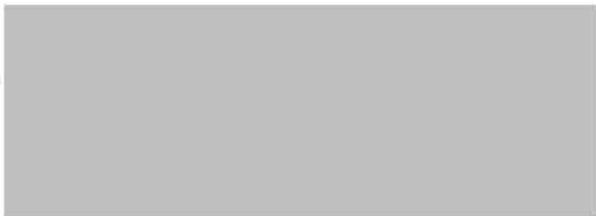
RECEIVED

Secretary Salazar,

Please protect our only marine wilderness on the West Coast next year as long intended. As a student at UCSB I have learned the importance of wilderness areas. Once this land is gone, it's gone and so is all of the flora and fauna that resides there. Please save Drakes Estero. Please Support alternative A.

Please Protect this area forever

Sincerely,
Bret Winners



DEC 09 2011
RECEIVED
2011 DEC 12 PM 3:48
POINT REYES NS

DEC 09 2011

CORRESPONDENCE ID: 52337

RECEIVED

2011 DEC 13 AM 11:22

POINT REYES NS

Dear Secretary Schaper

Please protect the only marine wilderness
of the west coast the wild life we lose
is needed so please support alternative
A the environmentally preferred
alternative that was protected most
years to so it already needed
The Oyster Company is damaging
wild life ecology impacting
in Point Reyes

Keith The Baker



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* indicates required fields

City: [REDACTED]

State/Province: [REDACTED]

Postal Code: [REDACTED]

First Name: STEPHEN

Middle Initial:

Last Name: LA FORGE

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.
A COMPANY IN BUSINESS FOR 100 YEARS MUST BE DOING SOMETHING RIGHT. THE IMPACT ON THE ENVIRONMENT IS MINIMAL, THE EIS PERFORMED WAS BIASED + FLAWED,

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OIN REYES NS

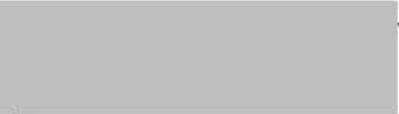
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* indicates required fields

City:* 

State/Province:* _____

Postal Code:* _____

First Name: RONALD

Middle Initial: J

Last Name: WILLIAMS

Address: 

Country: _____

Email: _____

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

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City:*



State/Province:*



Postal Code:

First Name:

ROCKNE

Middle Initial:

B

Last Name:

WOODSON

Address:



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.

POINT REYES NS

2011 NOV 21 PM 3:15

RECEIVED

11-13-2011

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:23

POINT REYES NS

Dear Secretary Salazar,

I urge you to protect our only marine wilderness on the West Coast next year as promised more than 30 years ago. I support alternative "A", which is the environmentally preferred alternative and Drakes Estero needs maximum protection.

A deal is a deal. Oysters can be grown all over the place, but this place is unique & cannot be replaced.

Sincerely,
Sarra Fulbright

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* indicates required fields

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

DORI

Middle Initial:

I

Last Name:

ORGAN

Address:

[Redacted]

Country:

Email:

POINT REYES NS
NOV 21 PM 3:15
RECEIVED

(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. I've used these oysters for 25 years & love the convenience to the park!

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:23

POINT REYES NS

Dear Secretary Salazar,

Please keep Drake Estero
a wilderness area. This is a
previous resource and the
original promise should be
kept. Please support alternative
"A" and keep this a wilderness.
The oyster business located here now
should be
removed.

Thank you,

Charles F Wood



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* indicates required fields

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

Postal Code:* [redacted]

First Name: Ellarae

Middle Initial: _____

Last Name: Miner

Address: _____

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.



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

* indicates required fields

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

[Redacted]

First Name:

Mary

Middle Initial:

C

Last Name:

St. John

Address:

[Redacted]

Country:

Email:

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

Comments or Requests:

STRONGLY

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

^

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

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City:* [REDACTED] State/Province:* [REDACTED]
 Postal Code:* [REDACTED]
 First Name: TONIA Middle Initial: _____
 Last Name: WANG
 Address: [REDACTED]
 Country: [REDACTED]
 Email: [REDACTED]

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(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

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

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City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: SARAH

Middle Initial: N

Last Name: FIELD

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.

POINT REYES NS

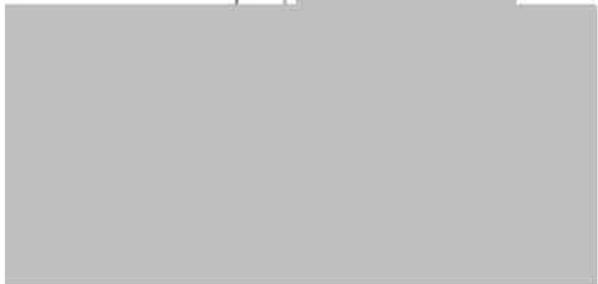
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Secretary Salazar

Please protect our only marine wilderness
on the West Coast next year as long
intended. I support Alternative "A" which
is the environmentally preferred Alternative.
I am concerned that others will try to
get their special exemptions from the
law in our other protected parks.

Catherine Yazadzhiev



DEC 09 2011
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2011 DEC 13 PM 2:24
POINT REYES NS

DEC 09 2011 11-11-2011

RECEIVED

2011 DEC 13 PM 2:42 DRAKES ESTRO

POINT REYES NS

Dear MR SALAZAR.

Please perseve

For people that enjoy The wilderness
I am concerned for other generation.

to enjoy I work hard and
have cerebral palsy Now and
I love WATER at enjoy wachting
gdd fish. in my house

Please suport Altenitive & to

make DRAKES ESTROS A wilderness
AREA in the future year to come

STARTING on 2012
I am a STATE park seasonal Employee
and I ENJOY Open spaces and
WATER. Apprecite what you

have done in the past.
I grew up in Big sur.

Sincerely
Baker [Signature]



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: JANE

Middle Initial: P.

Last Name: ARDLEY

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.
This oyster farm is a local sustainable business which provides a valuable public service.

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

* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Barbara

Middle Initial: E

Last Name: Brodnitz

Address: [Redacted]

Country: [Redacted]

Email: _____

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

Comments or Requests:

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

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

* indicates required fields

City:*



State/Province:*



Postal Code:*

First Name:

Louis

Middle Initial:

F.

Last Name:

Bacciocco

Address:



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.

POINT REYES NS

2011 NOV 21 PM 3:14

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DEC 09 2011

CORRESPONDENCE ID: 52353

DEC 09 2011

RECEIVED

Secretary Salazar,

2011 DEC 13 PM 2:12

POINT REYES NS

I support alternative "A".
If we can accomplish nothing
else on this planet to protect
our mother earth we can
at least support actions
like the Drakes Estero project
(promised 30yrs ago). We need
wilderness areas to replenish
our sense of wonderment &
awe @ the natural splendor
of our earth, not to mention
the dependence on these areas for
other life forms besides ourselves
(humans). Thank you

John Roman

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

CORRESPONDENCE ID: 52354

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: TIA

Middle Initial: _____

Last Name: CHOU

Address: [REDACTED]

Country: [REDACTED]

Email: [REDACTED]

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

Comments or Requests: GREAT PLACE FOR OUTDOOR, CLOSE TO NATURE.

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

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

* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: ROBERT

Middle Initial: [Redacted]

Last Name: ARRIGIONI

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.

Robert Arrigioni 11-16-11

POINT REYES NATIONAL SEASHORE

2011 NOV 21 PM 3:14

RECEIVED

DEC 09 2011

RECEIVED

2011 DEC 12 PM 3:47

COMMENTS

FROM

THE ENVIRONMENTAL LAW SOCIETY OF POINT REYES NS
THE UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW
Berkeley, CA 94720
environment@law.berkeley.edu

TO

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

REGARDING

Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement (ID: 33043)
Draft EIS DBOC SUP (ID: 43390)

December 8, 2011

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I. Introduction

We submit these comments on behalf of the University of California, Berkeley, School of Law Environmental Law Society (ELS),¹ a student group that engages its members in major environmental issues through advocacy campaigns, comments on administrative actions, and public events. ELS is the Berkeley chapter of the National Association of Environmental Law Societies (NAELS).²

A group of seven ELS members reviewed the record for the Drakes Bay Oyster Company Special Use Permit Environmental Impact Statement, including the EIS itself, the applicable laws and authorizing legislation, legislative histories, dozens of the scoping comments, as well as other background documents. Comprised principally of law students, the team included members with undergraduate and advanced degrees in biology, geology, and environmental science, as well as a former National Environmental Policy Act (NEPA) planner for the U.S. Forest Service. Members of the group traveled to Drakes Estero to visit the estuary and Drakes Bay Oyster Company's (DBOC's) land-based facilities on October 15, 2011, and attended the October 20, 2011, public hearing held in Mill Valley, California.

In addition to addressing some issues already analyzed by other parties, we attempted to conduct a comprehensive survey of non-conforming uses in congressionally designated potential wilderness areas (CDPWAs) in the National Wilderness Preservation System.³ Our research determined that, beginning with 8,003 acres associated with the Phillip Burton Wilderness—designated initially as the Point Reyes Wilderness in 1976 by Public Law 94-544—Congress has designated more than 250,000 acres of potential wilderness in conjunction with 29 different wildernesses spread across 13 states. We examined the nature of non-conforming uses in these CDPWAs, the time limits placed on them, if any, and their history since designation. This work provides useful legal context for the Draft EIS that we could not find in the record. We hope it will be helpful in assessing the possible impact of the Secretary's decision on both local wilderness values and the integrity of the Wilderness Act more generally. We also discuss the limitations of some of the scientific evidence cited by the EIS, which has been the subject of significant dispute.

Through our research we sought to address three main questions:

- 1. *What implications would granting a new Special Use Permit (Alternatives B–D) have for local wilderness values and for wilderness more generally?***
(Addressed in Part II and Appendix A)
- 2. *What are the likely environmental implications of granting a new Special Use Permit?***
(Addressed in Part III and Appendix B)
- 3. *Based on these analyses, should the Secretary select the No-Action Alternative (A), or should he authorize one of the Action Alternatives (B–D) and issue a new Special Use Permit?***
(Addressed in Parts II, III, and IV)

¹ <http://www.boalt.org/els>

² <http://www.naels.org/>

³ The National Wilderness Preservation System comprises federally-designated wilderness and potential wilderness areas managed by four agencies: the Forest Service, the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service.

II. Wilderness Implications of Granting a New Special Use Permit

Assessing the likely impact of the four proposed Alternatives on wilderness values at Point Reyes, the administration of CDPWAs around the nation, and the integrity of the Wilderness Act requires situating the proposed Special Use Permit in the broader context of the National Wilderness Preservation System.

For example, if DBOC's current and proposed activities are representative of non-conforming uses present in other CDPWAs and there is administrative precedent for extension/expansion of similar non-conforming uses, then selection of an Action Alternative might leave CDPWA administration largely unchanged. If few non-conforming uses in CDPWAs have specific time limitations that could be granted extensions, the proposed 10-year extension to DBOC's Special Use Permit might have little direct applicability to or influence over administration of other current CDPWAs. However, under such a scenario, setting administrative precedent for extending (and, certainly, for expanding) non-conforming uses could have significant generalized impact on CDPWA administration going forward.

On the other hand, if DBOC's activity is novel, its extension/expansion would be unprecedented, and/or many non-conforming uses in CDPWAs are time limited, granting a new Special Use Permit could have significant repercussions for CDPWA administration.

In order to analyze how DBOC's current and proposed mariculture operations fit within the overall context of the National Wilderness Preservation System and management of other CDPWAs, we examined what uses the Wilderness Act prohibits and makes exceptions for and cataloged the nonconforming uses present in CDPWA's across the nation.

A. Prohibited and Allowed Uses Under the Wilderness Act

Through the Wilderness Act,⁴ Congress sought to preserve and protect certain federally owned lands "in their natural condition" for the long-term "use and enjoyment of the American people."⁵ To achieve this goal, ("subject to existing private rights" and a limited palette of other exceptions) the Act bars commercial enterprise, permanent or temporary roads, and motorized vehicles or equipment in designated wilderness areas⁶ and withdraws them from mineral appropriation and leasing.⁷ Aside from the limited exceptions defined in the Wilderness Act, administering agencies are required to preserve the wilderness character of designated land, which must "be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use."⁸

Most exceptions to these prohibitions are permissive (in other words, the administering agency has the authority to allow them, but is not required to). However, some are mandatory. (See **Table 1**, below.) For example, if temporary roads and motorized equipment are essential for meeting Congress's minimum requirements for wilderness administration or to control insects, diseases, or fire, the administering agency *may* use them, but only so far as "necessary." Similarly, agencies *may* permit established uses of aircraft or motorboats to continue, and *may* allow commercial services necessary to valid wilderness pursuits. On the other hand, state or private owners of inholdings that are surrounded by wilderness areas *must* be allowed access to their properties and holders of valid mining claims, grazing permits, or other valid occupancy rights *must* be allowed to exercise their rights.

⁴ Wilderness Act of 1964, Pub. L. No. 88-577, §§ 1-7, 16 U.S.C. §§ 1131-1136 (2006).

⁵ *Id.* § 2(a).

⁶ *Id.* § 4(c).

⁷ *Id.* § 4(d)(3).

⁸ *Id.* § 4(b).

Table 1. Exceptions to prohibited uses in designated wilderness areas defined in the Wilderness Act.

§	Exception for	Further Description	Agency Discretion?	Subject to
4(c)	<i>Minimum requirements for wilderness administration</i>	Temporary roads and motorized vehicles or equipment may be used "as necessary to meet minimum requirements for the administration of the area" as Wilderness.	Permissive	Necessity requirement.
4(d)(1)	<i>Measures necessary for fire, insect, and disease control</i>	The administering agency may authorize measures necessary to control "fire, insects, and diseases" that would otherwise be prohibited under the Wilderness Act.	Permissive	Necessity requirement + restrictions agency "deems desirable."
4(d)(1)	<i>Established use of aircraft or motorboats</i>	The administering agency (via delegation from the Secretary) may permit continuation of previously established uses of aircraft and motorboats in a Wilderness area.	Permissive	Previous establishment + restrictions agency "deems desirable."
4(d)(3)	<i>Exploitation of valid mining claims</i>	Allows "where essential the use of mechanized ground or air equipment "; "necessary transmission lines, waterlines, telephone lines, or facilities "; and cutting timber on the claim if "not otherwise reasonably available" and if "needed in the extraction, removal, and beneficiation of the mineral deposits.	Mandatory	Essentiality requirement + "reasonable stipulations" to protect "the wilderness character of the land consistent with . . . the purposes for which . . . leased, permitted, or licensed"; "reasonable regulations governing ingress and egress"; rules and regulations for forest management.
4(d)(4)(1)	<i>Water and hydroelectric projects in the public interest</i>	If the President (not the agency) determines that allowing water prospecting, construction and maintenance of dams and reservoirs, hydroelectric projects, and power lines in a particular wilderness will better serve the U.S. public interest than denying them, he may authorize these activities.	Permissive	Presidential determination of public interest.
4(d)(4)(2)	<i>Established grazing</i>	Grazing established before wilderness designation "shall be permitted to continue."	Mandatory	Previous establishment + "reasonable regulations as are deemed necessary."
4(d)(5)	<i>Commercial services</i>	" Commercial services may be performed within the wilderness areas designated by this chapter to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas."	Permissive	Necessary and proper requirement.
5(a)	<i>Access to state or private inholdings</i>	Owners of inholdings within designated wilderness "shall be given such rights as may be necessary to assure adequate access . . . by [the] State or private owner and their successors in interest." Alternatively, a land exchange can be arranged.	Mandatory	Necessity requirement.
5(b)	<i>Access to valid mining claims or other valid occupancies</i>	"[W]here valid mining claims or other valid occupancies are wholly within a designated . . . wilderness area, the Secretary of Agriculture shall . . . permit ingress and egress . . . by means which have been or are being customarily enjoyed with respect to other such areas similarly situated."	Mandatory	"[R]easonable regulations consistent with the preservation of the area as wilderness."

Prior statutory exceptions in wilderness designation legislation have had a logical connection to those nonconforming uses explicitly authorized by the text of the Wilderness Act itself. For example, legislation has permitted the continuance of motorized vehicle use,⁹ aircraft,¹⁰ and cultural activities¹¹ in

⁹ See, e.g., Pub. L. No. 95-495, § 4(c)-(e) (permitting indefinite continuation of motorboat use on nearly twenty lakes and one river within the Boundary Waters Canoe Area Wilderness, allowing mechanized portage, and permitting use of snowmobiles within certain areas in the wilderness); Pub. L. No. 108-447, § 140(d)(2) (allowing continued snowmobile and motorboat usage on Lake Superior and maintenance and expansion of docks within the Gaylord A. Nelson Apostle Islands National Lakeshore Wilderness).

designated wilderness areas, along with other limited exceptions (such as insect and disease control and access to inholdings).¹² Each of these extends or echoes an exception made within the Wilderness Act.

The only additional¹³ commercial activity exception we identified was a timber harvesting specific to the Boundary Waters Canoe Area (BWCA), which was part of the original Wilderness Act.¹⁴ The BWCA received this special provision because past timber harvesting disqualified it under the proposed statutory definition of wilderness, which Congress did not want to weaken.¹⁵ Following a subsequently overturned district court opinion banning logging in the area's virgin forests,¹⁶ however, Congress directed the Secretary of the Interior to end logging in the BWCA and cancel all timber sale contracts in the wilderness within one year, resolving the inconsistency.¹⁷

A commercial oyster farming operation, like DBOC, does not resonate with any of the established exceptions for nonconforming uses in wilderness areas. However, that does not end our inquiry. Since they have yet to achieve full wilderness status, theoretically, agencies might have a history (whether justified by the Wilderness Act or not) of allowing maintenance or even expansion of nonconforming commercial uses within CDPWAs under some circumstances.

B. The Difference Between CDPWAs and Undesignated Potential Wilderness

Potential wilderness areas, by definition, contain uses that are not compatible with full wilderness designation. They encompass:

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. . . . [W]ilderness recommendation[s] forwarded to the Congress by the President may identify these lands . . . for future designation as wilderness when the nonconforming use has been removed or eliminated.¹⁸

Although the Wilderness Act contains no reference to "potential wilderness," Congress officially codified the category when it first designated "potential wilderness additions" at Point Reyes in 1976.¹⁹ Federal land management agencies frequently use this label when evaluating wilderness suitability and when

¹⁰ See, e.g., Pub. L. No. 110-229 (§ 101(b)(3) (authorizing helicopter access to construct and maintain a telecommunications site; § 101(b)(4), authorizing continued use of floatplanes on a lake within the wilderness area). Statutorily designated access for emergencies and maintenance is common. See ROSS W. GORTE, CONG. RESEARCH SERV., WILDERNESS LAWS: STATUTORY PROVISIONS AND PROHIBITED AND PERMITTED USES 10, 19 (2011) [hereinafter WILDERNESS LAWS].

¹¹ See Pub. L. No. 97-384 and Pub. L. No. 101-663 (providing access to cemeteries located within wilderness); Pub. L. No. 107-282, Pub. L. No. 108-424, Pub. L. No. 109-432, and Pub. L. No. 111-11 (Subtitle L) (providing access to wilderness areas for Native American tribes).

¹² See WILDERNESS LAWS, at 19-20.

¹³ In other words, not related to the generally permitted nonconforming economic uses enumerated in the Wilderness Act—grazing, water/power developments in the public interest, mining, and recreation-related commercial activities.

¹⁴ Pub. L. No. 88-577, § 4(d)(5). See also *Minnesota Public Interest Research Group v. Butz*, 541 F.2d 1292, 1297 (8th Cir. 1976) ("It is undisputed that some commercial logging in the BWCA was contemplated by Congress.").

¹⁵ *Minnesota Public Interest Research Group v. Butz*, 401 F. Supp. 1276, 1328 (D. Minn. 1975), rev'd, 541 F.2d 1292.

¹⁶ See *id.*

¹⁷ See Pub. L. No. 95-495, § 6(a), 92 Stat 1649 (1978).

¹⁸ NAT'L PARK SERV., MANAGEMENT POLICIES, 6.2.2.1 (2006), available at <http://www.nps.gov/policy/mp2006.pdf> (6.2.2.1 Potential Wilderness) (emphasis added).

¹⁹ An Act to Designate Certain Lands in the Point Reyes National Seashore, California, as Wilderness, Amending the Act of September 13, 1962 (76 Stat. 538), as Amended (16 U.S.C. 459c-6a), and for Other Purposes, Pub. L. No. 94-544, § 1, 90 Stat. 2515 (1976).

(through the President) making recommendations for wilderness and potential wilderness designations to Congress; however, only Congress can take the final step of actually designating them.²⁰

Undesignated and designated potential wilderness share significant similarities. However, they are quite different in the eyes of the law. National Park Service management policies require potential wilderness, both before and after designation, “to be managed as wilderness to the extent that existing nonconforming conditions allow.”²¹ But whereas agency-proposed potential wilderness has not yet received Congress’s stamp of approval, CDPWAs are designated by an act of Congress and will automatically convert to full wilderness upon publication of a Federal Register notice that non-conforming uses have ceased.²² After designation, nonconforming uses of National Park Service administered CDPWAs must “be eliminated as soon as practicable,” with progress checked on a 5-year inventory cycle and publication of notice of conversion to full wilderness required within 1 year of the time nonconforming uses cease.²³

In other words, CDPWA management guidance reflects that these areas are on a one-way journey to becoming full wilderness. No generic timeline exists, but a standard theme is that nonconforming uses must be phased out when practicable—not extended or expanded. As the Park Service notes in its Reference Manual, “[p]otential wilderness is not intended to be a permanent land status” but is instead “a ‘half-way house’ for lands that otherwise merit full wilderness designation except for *temporary*, non-conforming conditions.”²⁴

How has this guidance played out in practice? **Table 2**, below, summarizes nonconforming uses in CDPWAs, changes in use since designation, and approximate time frames expected for conversion to full wilderness. **Appendix A** describes these results in greater detail and provides additional information for each CDPWA, citing references for all material. (Note that question marks after values for “Current Size” and “Remaining Non-Conforming Use(s)” denote that the values are assumed based on the lack of Federal Register notices stating otherwise.)

²⁰ *Id.* §§ 2(a), 3; *e.g.*, *id.* § 3(c) (explaining that “[a] recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress”).

²¹ See MANAGEMENT POLICIES, *supra* note 18, 6.3.1.

²² See, *e.g.*, National Parks and Recreation Act of 1978, Pub. L. No. 95-625, § 403, 92 Stat. 3467 (stating that “[a]ny lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness”).

²³ Nat’l Park Serv., Director’s Order 41: Wilderness Preservation and Management, at 4–5 (1999), *available at* <http://wilderness.nps.gov/document/Director's%20Order%2041.doc>.

²⁴ Nat’l Park Serv., Reference Manual 41, Wilderness Preservation and Management, at 73 (1999), *available at* <http://www.nps.gov/policy/DOrders/RM41.doc> (emphasis added).

Table 2. Summary of nonconforming uses in congressionally designated potential wilderness areas.

Wilderness Area	Agency	State	Year	Designating Public Law	Initial Size (acres)	Current Size (acres)	Initial Non-Conforming Use(s)	Remaining Non-Conforming Use(s)	Time Frame for Conversion to Full Wilderness
Buffalo National River Wilderness	NPS	AR	1978	95-625, § 401(1)	25,471	1,007	Non-federal ownership, motorized boat access	Non-federal ownership	Upon acquisition
Carlsbad Caverns Wilderness	NPS	NM	1978	95-625, § 401(2)	320	same (?)	Non-federal ownership	same (?)	Upon acquisition
Chiricahua National Monument Wilderness	NPS	AZ	1976	94-567, § 1(c)	2	same (?)	Lead mining claim	same (?)	Upon acquisition
Chumash Wilderness	FS	CA	1992	102-301, § 2(5)	50	same (?)	Road corridor with ORV traffic	same (?)	When agency constructs alternate route
Congaree National Park Wilderness	NPS	SC	1988	100-524	6,840	same (?)	Non-federal ownership, road	same (?)	Upon acquisition, road removal
Cumberland Island Wilderness	NPS	GA	1982 2004	97-250, § 2(a); 108-447, § 145(a)	(44,746) 10,500	same (?)	Non-federal ownership	same	Upon acquisition
Death Valley Wilderness	NPS	CA	1994	103-433, § 601(b)	6,848	same (?)	Power line corridor	same (?)	Upon cessation of power line use
Elkhorn Ridge Wilderness	BLM	CA	2006	109-362, § 6(a)	11,271	0	Ecological degradation from logging	-	-
Great Sand Dunes Wilderness	NPS	CO	1976 1979	94-567, § 1(d); 96-87, § 401	670 + 1,900	65 (?)	Non-federal ownership, access, and improvements	same (?)	Upon acquisition
Gulf Islands Wilderness	NPS	FL	1978	95-625, § 401(5)	2,800	520	Non-federal ownership	same	Upon acquisition
Haleakala Wilderness	NPS	HI	1976	94-567, § 1(e)	5,500	51	Non-federal ownership	same	Upon acquisition
Hawaii Volcanoes Wilderness	NPS	HI	1978	95-625, § 401(6)	7,850	same (?)	Non-federal ownership	same (?)	Upon acquisition
Isle Royale Wilderness	NPS	MI	1976	94-567, § 1(f)	231	93	Trailside shelters, 4 commercial fishing bases, Coast Guard boathouse, power line, ranger station facilities, 11 life leases	Trailside shelters, Coast Guard boathouse/ trail, ranger station facilities, SUPs extending life leases to children, volunteer-in-park agreements, researcher/NPS housing, Artist in Residence cabin	When life leases are up and other non-conforming uses cease
John Krebs Wilderness	NPS	CA	2009	111-11, § 1902(1)(A)	130	same (?)	Check dams and water impoundments	same (?)	Upon cessation of hydroelectric operations
Joshua Tree Wilderness	NPS	CA	1976 2009	94-567, § 1(g); 111-11, § 1851(c)(1)	30,740 + 43,300	62,138 to 62,238	Non-federal ownership	same	Upon acquisition
Kimberling Creek Wilderness	FS	VA	2009	111-11, § 1103(c)(1)	349	same (?)	Extensive former road network	same (?)	Upon notice of wilderness compatibility or after 5 years
Marjory Stoneman Douglas Wilderness	NPS	FL	1978	95-625, § 401(3)	81,900	same	Non-federal ownership, mineral rights, power line	same (?)	Upon acquisition; burial of power line
Olympic Wilderness	NPS	WA	1988	100-688, § 101(a)(1)	378	same (?)	Non-federal ownership	same (?)	Upon acquisition
Oregon Badlands Wilderness	BLM	OR	2009	111-11, § 1702(a), (c)(1)	25 ft.-wide "corridor"	same (?)	Motorized sled dog training by visually impaired musher	same (?)	Upon termination of training
Organ Pipe Cactus Wilderness	NPS	AZ	1978	95-625, § 401(7)	1,240	same (?)	Overhead power line (?)	same (?)	Upon burial or relocation of power line
Otis Pike Fire Island High Dune Wilderness	NPS	NY	1980	96-585, § a	18	1	Non-federal ownership, structures, access roads	Boardwalk nature trail; boardwalk, dune crossing, and bathhouse	Upon removal of structures
Phillip Burton Wilderness	NPS	CA	1976	94-544, § 1; 94-567, § 1(k)	8,003	6,251	Commercial oyster farming operation, State mineral and fishing rights, road, power/phone lines	Commercial oyster farming operation, road, power/phone lines (?)	When non-conforming uses cease (after efforts to steadily remove all obstacles to conversion)
Pinnacles Wilderness	NPS	CA	1976	94-567, § 1(l)	990	same (?)	Non-federal ownership	same (?)	Upon acquisition
Roaring River Wilderness	FS	OR	2009	111-11, § 1202(c)(1)(A)	900	same (?)	Human alteration related to timber harvest	same (?)	Upon notice of wilderness compatibility
Rocky Mountain National Park Wilderness	NPS	CO	2009	111-11, § 1952(a), (c)	5,169 (?)	same (?)	Non-federal ownership, life tenancy	same (?)	Upon acquisition, expiration of life tenancy
Sequoia-Kings Canyon National Parks Wilderness	NPS	CA	1984	98-425, § 106(2)	100	same (?)	Visitor use developments	same (?)	Upon showing of adverse impact and removal (?)
Shenandoah Wilderness	NPS	VA	1976	94-567, § 1(m)	560	0	Fire tower, power line, fire road, SUPs	-	-
Stephen Mather Wilderness	NPS	WA	1988	100-688, § 201(a)(1)	5,226	same (?)	Patented mining claims, planned flooding, road, structures(?)	same (?)	Upon acquisition
Yosemite National Park Wilderness	NPS	CA	1984	98-425, § 106(1)	3,550	same (?)	Non-federal ownership, power line corridor, Hetch Hetchy dam, other(?)	same (?)	Upon acquisition; power line burial or relocation; dam removal

By far the most common nonconforming use in CDPWAs is more accurately described as a nonconforming condition: non-federal ownership of lands surrounded by or adjacent to designated wilderness.²⁵ Although administering agencies can pursue land purchases and exchanges, they may not always find willing negotiating partners or may lack the funds for acquisition, so the time at which “practicable” conversion of pockets of non-federal land to full wilderness becomes possible is only partly under agency control. Potentially, private or state owners (and their successors in interest) could continue to hold out indefinitely, all the while receiving the access guaranteed them by the Wilderness Act. On the other hand, removal of some nonconforming uses, like federally owned structures, may be directly within agency discretion and control (though not wholly: Congress must appropriate funds for removal and, potentially, ecological restoration activities). The right-hand column in Table 2 highlights cases in which the administering agency likely has significant power to influence the timing for conversion to full wilderness. An intermediate category of nonconforming uses—for example, life leases—are necessarily time limited but lack precise expiration dates.

DBOC’s existing Reservation of Use and Occupancy (RUO) and Special Use Permit have a known, finite expiration date: November 30, 2012. Less than one year from now, the primary obstacle to Drakes Estero achieving full wilderness status will evaporate—unless the Secretary discretionarily decides to grant DBOC an extension and, potentially, an expansion. A decision that would result in cessation of DBOC operations and removal of DBOC facilities upon expiration of the RUO and Special Use Permit would align with the agency’s best management practices and the specific stated intent of Congress that the “land and waters designated as potential wilderness additions [at Point Reyes]. . . 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.”²⁶

C. Extension or Expansion of a Non-Recreation-Focused Commercial Enterprise in a CDPWA Appears to Be Unprecedented

While our research was not necessarily exhaustive, and it is possible to undertake a more in-depth exploration of the details and complete history of agency management in CDPWAs, our findings suggest that granting a new Special Use Permit for DBOC’s oyster farming business would represent a significant departure from accepted wilderness/CDPW management practices. In general, the record shows that once Congress designates an area as potential wilderness, nonconforming uses that can’t be characterized as “valid existing rights” are generally phased out, not unnecessarily expanded or even extended.²⁷

Our survey (summarized in Table 2 and Appendix A) of CDPWAs indicates that DBOC is a highly unusual nonconforming use. While other CDPWAs contain documented nonconforming uses related to commercial activity—such as cattle grazing in Death Valley potential wilderness,²⁸ patented mining claims in Stephen Mather potential wilderness, and Southern California Edison’s operation and maintenance of hydroelectric dams in John Krebs Wilderness potential wilderness—these are generally substantively related to one or more of the exceptions explicitly listed in the Wilderness Act. By contrast, DBOC’s mariculture business is a facially commercial production, harvesting, and retail operation (that includes physical facilities both on land and in the water) without obvious ties to any Wilderness Act exceptions. Its closest analog is four commercial fishing bases in the Isle Royale potential wilderness. However, all four of those bases ceased to operate sometime before 2005.

²⁵ Past federal land disposal policies contributed to an unwieldy patchwork of federal, state, and private ownership in many parts of the west.

²⁶ H.R. REP. NO. 94-1680, at 3 (1976) (emphasis added).

²⁷ One of the few pieces of evidence for extension is a generic reference to Special Use Permits and a specific reference to “Special Use Permit[s] extending life lease use rights” to the children of leaseholders in Isle Royale potential wilderness. However, it is unclear whether these permits were issued prior to or after designation.

²⁸ Hearings before the Subcommittee on Public Lands, National Parks, and Forests to consider S. 21, the California Desert Protection Act of 1993 at 232. HRG-1993-NAR-0024.

Furthermore, while park staff may be authorized to operate motor vehicles in CDPWAs as necessary to complete essential wilderness management tasks²⁹ without violating the Wilderness Act, allowing a purely commercial operator to do so on a near-daily basis appears to be essentially unheard of. Although established use of motorboats by private parties may be permitted to continue after wilderness designation, this exception seems to have been made mostly for longstanding recreational and administrative uses of watercraft (*see, e.g.*, the Boundary Waters Canoe Area Wilderness). Even well-established and widespread recreational motorboat use has been phased out over time within Buffalo National River potential wilderness.

Finally, aside from Public Law 111-88, Section 124, our research found no other instances of congressional action to authorize extension of a non-conforming commercial use not previously contemplated by one of the established exceptions to Wilderness Act prohibitions.

Therefore, granting DBOC a new Special Use Permit would be an unprecedented act.³⁰

III. Environmental Implications of Granting a New Special Use Permit

The Draft EIS indicates that granting a new Special Use Permit would have significant negative impacts on environmental resources and recreational values in Drakes Estero. These include “long-term major adverse impacts” to soundscapes and wilderness;³¹ “long-term moderate adverse impacts” to wetlands, eelgrass, benthic fauna, harbor seals, birds, coastal flood zones, and visitor experience and recreation;³² and “long-term minor adverse impacts” to fish, special-status species, water quality, and NPS operations.³³ In fact, according to the Draft EIS, Alternatives A–D would result in “long-term beneficial impacts” to only one category analyzed—socioeconomic resources.³⁴ Conversely, the Draft EIS projects that Alternative A, the No Action Alternative, would have “long term beneficial impacts” for all resources and values, with the exception of socioeconomic resources (where it would have “long-term minor adverse impacts”) and NPS Operations (where all 4 alternatives would have “long-term minor adverse impacts”).³⁵

The likely negative impacts the Park Service envisions from extending or expanding DBOC’s operations³⁶ in Drakes Estero raise concerns about the wisdom of discretionarily permitting continued disturbance to this unique estuarine system. The 2009 National Research Council (NRC) report noted

²⁹ See, e.g. Haleakala Wilderness in Hawaii, where Congress affirmed the use of helicopters “if necessary . . . for fence maintenance to control destructive invasive alien plants and non-native animals,” 67 Fed. Reg. 6944 and Appendix at A-3, and Kimberling Creek Wilderness in Virginia where Congress mentioned that “motorized equipment and mechanized transport” could be used “if necessary to restore the natural ecosystems,” Pub. L. No. 111-11, § 1103(c)(1) and Appendix at A-23.

³⁰ Some might argue that the uniqueness of DBOC’s nonconforming use cabins the potential effect of granting an extension of it because this management change is not readily transferable to other CDPWAs. However, this oversimplification ignores the probable precedential effect of granting an unnecessary extension/expansion on a especially nonconforming category of use.

³¹ NAT’L PARK SERV., DRAKES BAY OYSTER COMPANY SPECIAL USE PERMIT DRAFT EIS lli, liv (2011) [hereinafter DEIS].

³² *Id.* at xl, xlii, xliv, xlvi, xlviii, l, and lv.

³³ *Id.* at xlv, xlix, li, and lviii.

³⁴ *Id.* at lvii (explaining that continuing DBOC operations would “provide employment and housing to DBOC staff and their families . . . contribut[e] to the regional tax base . . . [and] provide a local food source for the region”).

³⁵ References, *supra* notes 31–34.

³⁶ It is important to not that, in addition to officially permitted activities, unforeseen and unpermitted activities may have significant impacts on Drakes Estero. For example, DBOC has been found to be in violation of the terms of its RUO on a number of occasions. Violations have included unpermitted septic discharges into the Estero and motor boats operation in off-limits areas protected for harbor seal breeding. See DEIS at 46; *Letter of September 29, 2011 from California Coastal Commission to Kevin Lunny, DBOC. Re: Compliance With the Coastal Act and Consent Cease and Desist Order CCC-07-CD-11 (Drakes Bay Oyster Company)*. The extent of the harm these violations cause may be difficult to quantify, but they may also have long-term cumulative impacts that were not fully assessed in the EIS.

that even sustainable, highly-regulated bivalve mariculture exposes the ecosystem to a number of risks (including greater susceptibility to disease), and use of artificial substrate facilitates the spread of non-native epibiotic organisms.³⁷

However, that report and many other sources have concluded that the scientific record of DBOC's past and ongoing impacts suffers from significant data gaps, leading to uncertainty about the magnitude of these impacts and calling into question the strength of the evidence for causal links between specific DBOC activities and particular changes in the estuary. A few of these questions are highlighted in **Table 3** and discussed in **Appendix B**.

Table 3. Relevant questions relating to DBOC's impacts that have not been satisfactorily answered yet.

Question	What we know	What we don't know	Conclusion?
What is the impact of DBOC's Pacific oyster mariculture on native Olympia oyster recovery in Drakes Estero?	Species can compete directly for resources.	Population of Olympia oysters in Drakes Estero.	Pacific oyster most likely has a negative impact on the potential for Olympia oyster rehabilitation in Drakes Estero. However, Estero-specific research needed to give better idea of the likely magnitude of the impact, e.g., researching factors relevant to Pacific oyster's potential to go feral in the area.
	Pacific oyster beds act as "recruitment sink" for Olympia oyster.	Detailed differences between the physical, chemical, and biological environment of Drakes Estero and areas where Pacific oyster has become independently invasive, like San Francisco Bay.	
	Pacific oyster has become self-established in San Francisco Bay.	Detailed differences between Drakes Estero ecosystems and physical/chemical environment and that of localities where studies are done, and how/if this affects Pacific oyster's impacts.	
What is the impact of DBOC's mariculture structures on sedimentation in Drakes Estero?	Oyster bags and racks have been documented to trap sediments in other areas.	Significance of effects of mariculture structures on sedimentation in Drakes Estero.	Potential for negative impact/change in sedimentation, but more research needed to determine precise effects.
What is the impact of DBOC's mariculture activities on fish in Drakes Estero?	In Humboldt Bay, California, oyster long-lines were found to harbor more fish than eelgrass.	Similarities/differences between long-lines used in Humboldt Bay and oyster racks used in Drakes Estero.	More research needed in Drakes Estero to determine if oyster mariculture apparatus affects fish densities and varieties.
	North Carolina study showed equal fish density over plastic bottom netting (used to cover cultured clams) and in eelgrass beds.	Same or different fish species, other factors in Drakes Estero vs. two study areas.	Assumption that increase in fish populations represents a net benefit to the ecosystem should be analyzed critically.
What is the impact of DBOC's mariculture activities on harbor seals in Drakes Estero?	Data from population studies.	Effects of disturbances on seals during breeding season.	More research needed to determine specific impacts of mariculture on harbor seals (including causal relationships).
	Statistical analysis.	Relationship between mariculture activities and seal behaviour at haul-out sites?	Disturbances from mariculture should be precautionarily reduced.
	Mariculture activities, in particular motor boat use, can disrupt seals in breeding grounds.	Affect on seals in water (as opposed to hauled-out).	Need long term monitoring
What is the impact of DBOC's mariculture activities on water quality in Drakes Estero?	Oyster waste can cause sedimentary anoxia.	Extent to which oysters vs. tidal flux influence water quality in Drake's Bay	Use of term "benefits" to describe ecosystem changes should be closely assessed.
	Oyster pseudo-feces can fertilize benthic macro- and microalgae, increasing benthic primary production.		Pacific oyster may cause sedimentary anoxia or improve water quality, but both effects may be made largely irrelevant by strong tidal flow.
	Oyster mariculture has been shown to improve overall water quality in some areas.		Therefore, using these as arguments for/against continuation of oyster mariculture may not be meaningful.

³⁷ OCEAN STUDIES BOARD. NATIONAL RESEARCH COUNCIL, ECOSYSTEM CONCEPTS FOR SUSTAINABLE BIVALVE MARICULTURE 8 (2010) [hereinafter NRC REPORT]. The Draft EIS also mentions these impacts. See, e.g., DEIS, *supra* note 31, at xlv.

The NRC report found that “onsite investigations of potential impacts of DBOC operations on the Drakes Estero ecosystem . . . could be fairly characterized as preliminary results that would require additional focused research to allow definitive conclusions to be reached about the presence, absence, or magnitude of any ecological impacts.”³⁸ Furthermore, it noted that studies of impacts in other locations “may help support results from initial studies in Drakes Estero, [but] comparability is not always sufficient to reach confident conclusions on the most important issues of relevance to management decisions.”³⁹

Similarly, the recently issued Marine Mammal Commission report⁴⁰ points out the many limitations of data linking changes in harbor seal population and distribution to a variety of influences, including DBOC’s activities, in the estuary. The Commission found that:

- Although “the number of seals using [the oyster bar haulout] site declined substantially in 2007 . . . existing information is [not] sufficient to determine the factor(s) that caused the change.”
- “[D]ata . . . are not sufficient to support firm conclusions regarding the rate and significance of [] disturbance” by mariculture activities.”
- “[D]ata supporting the [statistical] analyses are scant and have been stretched to their limit. Nevertheless, . . . [they] provide some support for the conclusion that harbor seal habitat-use patterns and mariculture activities in Drakes Estero are at least correlated . . . [but] are not sufficient to demonstrate a causal relationship. Additional, carefully guided study would be required to determine if the apparent relationship is one of cause and effect.”
- “Improvements are needed in the procedures used to collect disturbance data and to characterize mariculture activities and effort in the upper estuary. Photographs taken between 2007 and 2010 warrant further review to assess their usefulness for characterizing the rates and consequences of disturbance. Also, studies are needed to characterize harbor seal haulout patterns in the absence of disturbance, and to assess the biological significance of disturbance when it occurs.”⁴¹

Without more and better data, then, the environmental repercussions of the Secretary’s decision remain unclear. The Commission notes that “whether and to what extent the above shortcomings are addressed will depend, in part, on the decision by the Secretary of the Interior.”⁴² Far from negating the need to learn more, “[i]f the Secretary determines that the estuary should be converted to full wilderness status, then the Park Service should continue to study the seals to determine if and how they may change in abundance or alter their habitat-use patterns.”⁴³ On the other hand, if the Secretary selects one of the Action Alternatives and grants a new Special Use Permit, it will be crucial for the National Park Service to “address the various weaknesses and gaps in the available data” with a well-thought out long-term monitoring and adaptive management plan.⁴⁴ The Commission gives detailed suggestions for such a plan, including 20 elements it sees as essential to successful adaptive management.⁴⁵ It cautions that:

“[i]mplementing an adaptive management approach is not a simple or trivial matter. To be successful, . . . [it] would have to be well conceived, adequately supported, and responsibly implemented by all parties involved. Most importantly, it would have to be based on getting at the truth, rather than having those with conflicting viewpoints seeking simply to win the debate.”⁴⁶

³⁸ NRC REPORT, at 67.

³⁹ *Id.*

⁴⁰ MARINE MAMMAL COMMISSION, MARICULTURE AND HARBOR SEALS IN DRAKES ESTERO, CALIFORNIA (2011).

⁴¹ *Id.* at i–iii.

⁴² *Id.* at iii.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 59–60.

⁴⁶ *Id.* at 59.

Given the Park Service's limited budget and the tight time constraints for preparing the Final EIS, it is unlikely that sufficient data to adequately evaluate the potential impacts of DBOC's proposed future activities will become available within the timeframe of NEPA review. While adaptive management is a possibility, it is an expensive and labor-intensive one, the need for which would be obviated by selecting Alternative A.

In circumstances of scientific ambiguity, some policy-makers adopt the precautionary principle,⁴⁷ placing the burden on the party proposing an action to affirmatively show a lack of negative impact on the environment. Given the uniqueness of Drakes Estero, our incomplete knowledge of its complex ecology, and the limitations on our understanding of the specific effects of DBOC's activities, we counsel the Secretary to adopt a precautionary approach in his decision-making and select the No Action Alternative.

IV. Adherence to the Purpose and Substance of the Wilderness Act and the Precautionary Principle Compel the Secretary to Select the No-Action Alternative

While Section 124 of Public Law 111-88 indeed *authorizes* the Secretary to grant a 10-year extension of DBOC operations, it does not *mandate* it. The Secretary has discretion to grant or deny on the basis of his expert opinion after reasoned analysis of all factors. We urge that approving a new Special Use Permit would result in significant, clear negative impacts to wilderness values and uncertain, although likely negative, impacts to Drakes Estero ecosystems.

First, granting an extension or expansion of a non-recreation-focused commercial enterprise in a CDPWA seems to lack precedent and would take place in apparent contravention of the authorizing legislation's intent, the Wilderness Act's purpose and substance, and the Park Service's own management guidance.

Additionally, even divorced from the wilderness context, the lack of robust, relevant, temporally and spatially extensive scientific data regarding the magnitude and extent of DBOC's impacts does not demonstrate that mariculture activities in Drakes Estero pose little risk of environmental harm. On the contrary, it demonstrates that the Secretary does not have the information he would need to make an informed decision about the scientific wisdom of discretionarily extending/expanding this non-conforming use in this CDPWA. Therefore, to protect wilderness values at Point Reyes and the integrity of the National Wilderness Preservation System and to avoid unnecessary risk to local ecosystems, we urge the Secretary to select Alternative A, the No-Action Alternative.

DBOC took over Johnson's Oyster Farm's RUO and Special Use Permit in 2005 with full knowledge that the authorization for this nonconforming use was fast coming to an end. While the RUO contains a permissive renewal clause,⁴⁸ it pre-dates the designation of Drakes Estero as potential wilderness, and it is unrealistic to think that, absent the current congressional authorization, the Secretary would have even entertained the possibility of renewal.

The 2009 authorization explicitly denies that it will serve as precedent for administrative actions elsewhere within the National Wilderness Preservation System,⁴⁹ but this is a false promise. Although the

⁴⁷ See, e.g., Article 191 of the Treaty on the Functioning of the European Union (EU) (stating that the Precautionary Principle may be invoked when a phenomenon, product or process may have a dangerous effect, identified by a scientific and objective evaluation, if this evaluation does not allow the risk to be determined with sufficient certainty).

⁴⁸ RUO (1972) ("Any permit for continued use will be issued in accordance with National Park Service regulations at the time the Reservation expires.").

⁴⁹ See Interior Department and Further Continuing Appropriations, Fiscal Year 2010, Pub. L. No. 111-88, § 124, 123 Stat. 2932 (2009) (stating that "[n]othing in this section shall be construed to have any application to any location other than Point Reyes National Seashore; nor shall anything in this section be cited as precedent for management of any potential wilderness outside the Seashore").

explicit scope of Section 124 is limited to Point Reyes National Seashore, this language does nothing to limit potential indirect impacts in the event the Secretary chooses to approve a new Special Use Permit under this congressional grant of authority. Section 124's disclaimer in no way precludes other members of Congress—noting the Secretary's willingness to sacrifice wilderness values under political pressure—from seeking legislative (or legislatively authorized) extensions or expansions for nonconforming activities in CDPWAs in their own states.

This is the kind of political intervention that Arthur Wright, President of The Wilderness Society, warned of in a 1976 hearing on designation of wilderness areas in Badlands National Monument:

We do not believe the legislative history of [The Wilderness Act] or the act itself is favorable to [the] idea of Congress delegating authority to make wilderness judgments [by designating potential wilderness and leaving its conversion to wilderness up to an executive agency]. Moreover, we have a concern that something could happen to potential wilderness additions if they receive bad handling . . . or there are administrative or legal loopholes involved in potential additions and *I think with strong economic pressures, somehow, someway, potential wilderness additions could find themselves in deep trouble, and not make this wilderness system as intended by Congress.*⁵⁰

Unlike many CDPWAs, which must wait an unknown length of time until agency acquisition of non-federal land/rights before conversion to full wilderness, for the past 35 years, Drakes Estero's potential wilderness status had a known expiration date. Ironically, that date is at risk of being pushed off (perhaps indefinitely) into the future because Congress has given the Secretary discretion he did not have before. Whereas agency control over the time frame for ending non-conforming uses would normally expedite their removal (and, therefore, CDPW conversion to full wilderness), here it may have the opposite effect.

If the Secretary grants the 10-year extension Congress has authorized (but not mandated), what will change from one decade to the next? As 2022 draws near, DBOC will be at liberty to seek, and Congress will be at liberty to grant, authorization for another 10-year reprieve. In this circumstance, would the Secretary approve a second extension? If not, by what logic? In the overall scheme of things, a 20-year delay in the conversion of CDPW to full wilderness seems not so different from a 10-year delay. However, this type of rationalizing could rapidly lead to Drakes Estero earning *permanent* status as a *potential* wilderness. This outcome, and the likelihood it would be repeated in other locations around the country, will harm local wilderness values and chip away at the integrity of the Wilderness Act itself.

While we argue against it, if the Secretary decides to select an Action Alternative, we strongly recommend that he include explicit provisions to cure the information gaps currently plaguing analysis of DBOC's impacts on Drakes Estero ecosystems. This would require extensive, ongoing monitoring as part of a well-thought-out adaptive management system. Additionally, instead of expanding DBOC's operations, the Secretary should demand a stepped phase out of its "temporary nonconforming or incompatible conditions" over the next ten years. These include both DBOC's direct activities⁵¹ and its indirect impacts.⁵² An adaptive, research-oriented approach to a DBOC extension would at least ensure that we know more about its impacts in 10 years than we do today.

⁵⁰ "Wilderness Additions: National Park System" hearings before the Committee on Interior and Insular Affairs. Senate, Feb. 5, 19, Mar. 2, 1976 at 150. HRG-1976-IIA-0075 (emphasis added).

⁵¹ For example, the near-daily use of motorboats over a large portion of the estuary, the periodic import of out-of-state oyster seed (potentially containing additional invasive species like the introduced tunicate *Didemnum vexillum*), and the maintenance of hard, benthic substrates in a traditionally mud and sand dominated estuary

⁵² For example, environmental loading of mariculture-associated viruses, parasites, and epibionts; competitive depletion of plankton and organic particulate matter; shifts in the overall nutrient cycling of the estuary; and unknown impacts on the recovery and persistence of native species in the estuary (e.g., native oyster reintroduction, harbor seal pupping success).

APPENDIX A.
Congressionally Designated Potential Wilderness Areas as of 11/2011

Potential Wilderness Areas Designated in 1976

Pub. L. No. 94-544	Phillip Burton Wilderness (Point Reyes Wilderness) (Discussed as #6, at page A-5)	CA
Pub. L. No. 94-567		
1.	Chiricahua National Monument Wilderness	AZ
2.	Great Sand Dunes Wilderness	CO
3.	Haleakala Wilderness	HI
4.	Isle Royale Wilderness	MI
5.	Joshua Tree Wilderness	CA
6.	Phillip Burton Wilderness (Point Reyes Wilderness)	CA
7.	Pinnacles Wilderness	CA
8.	Shenandoah Wilderness	VA

1. Chiricahua National Monument Wilderness — 1976 *Arizona*

Responsible Agency: National Park Service
Initial Size (1976): 2 acres (Pub. L. No. 94-567, § 1(c))
Current Size: 2 acres (?)

Reasons for "potential" wilderness status:

- Lead Mining Claim: "The two-acre potential wilderness on the northeast corner of the monument is part of a valid lead mining claim. When the two acres are acquired, they will become wilderness." *Walker Statement* at 88.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "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." Pub. L. No. 94-567, § 3.
- General Administration: "[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act." *Id.* § 1; *see also id.* § 6.

Sources (ordered by date):

- i. *Designation of Wilderness Areas Part IV: Hearing on H.R. 13562 and H.R. 13563 Before the Subcomm. on National Parks and Recreation of the H. Comm. on Interior and Insular Affairs, 93rd Cong. 10-43, 87-115 (1974) (statement of Ronald Walker, Director, Nat'l Park Serv.) [hereinafter Walker Statement]*
- ii. An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)

2. Great Sand Dunes Wilderness — 1976 + 1979 *Colorado*

Responsible Agency: National Park Service
Initial Size (1976): 670 (Pub. L. No. 94-567, § 1(d)) + 1,900 (Pub. L. No. 96-87, § 401; *see also* 74 Fed. Reg. 16005)
Current Size: 65 acres (?) (*see* 74 Fed. Reg. 16006 (announcing conversion of 2,505 acres to full wilderness in 2009))

Reasons for "potential" wilderness status:

- Non-Federal Ownership, Access, and Improvements: "This potential wilderness consists of private inholdings and some Federal land utilized for access to one of them." *Walker Statement* at 25. "There are no manmade structures . . . and we have no plans to put anything there, possibly except a primitive camp here in San Creek [indicating] and one here on Little Medano Creek." *Id.* at 26. "At the time of the establishment of the wilderness area two of the potential wilderness units had been purchased by the government but had non-conforming uses . . . One was occupied by the previous owner under a "Life Estate Agreement" while the other was occupied under a "Use and Occupancy" agreement. The former expired upon the death of the occupant in 1995 while the latter's term expired in 1999. . . . Additionally, improvements existing on one of the units were removed and the area restored to a natural state." 74 Fed. Reg. 16005-16006. The government purchased two other private units, which had previously been "accessible by motor vehicle," in 2000 and 2004. *Id.* at 16006.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "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." Pub. L. No. 94-567, § 3.
- General Administration: "[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act." *Id.* § 1; *see also id.* § 6.
- Motorized Vehicles for Fence Maintenance: "The Committee recognized the possible need . . . to utilize motorized vehicles along certain parts of the monument boundary to maintain fencing for protection . . . from trespass of domestic livestock" and "that this necessary management activity may continue pursuant to Sec. 4 (a)(3) of the Wilderness Act." S. REP. NO. 94-1357 at 4-5.

Sources (ordered by date):

- i. *Designation of Wilderness Areas Part IV: Hearing on H.R. 13562 and H.R. 13563 Before the Subcomm. on National Parks and Recreation of the H. Comm. on Interior and Insular Affairs*, 93rd Cong. 10-43, 87-115 (1974) (statement of Ronald Walker, Director, Nat'l Park Serv.) [hereinafter *Walker Statement*]
- ii. S. REP. NO. 94-1357 (1976)
- iii. An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)
- iv. An Act to Authorize the Secretary of the Interior to Provide for the Commemoration of the Efforts of Goodloe Byron to Protect the Appalachian Trail, and for Other Purposes, 1979, Pub. L. No. 96-87, § 401, 93 Stat. 664 (1979)
- v. Notice of Designation of Potential Wilderness as Wilderness, Great Sand Dunes National Park and Preserve, CO, 74 Fed. Reg. 16005-16006 (Apr. 8, 2009)

3. Haleakala Wilderness — 1976

Hawaii

<i>Responsible Agency:</i>	National Park Service
<i>Initial Size (1976):</i>	5,500 acres (Pub. L. No. 94-567, § 1(e))
<i>Current Size:</i>	51 acres (67 Fed. Reg. 6944 (explaining that East Maui Irrigation Inc. owns the remaining acreage in 2002))

Reasons for "potential" wilderness status:

- Non-Federal Ownership: The potential wilderness "consists of 5,310 acres of State land and 190 acres of privately owned land" that will become wilderness "upon their acquisition by the Federal Government." *Walker Statement* at 91.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "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." Pub. L. No. 94-567, § 3.

- **General Administration:** “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; *see also id.* § 6.
- **Exclusion Fence Construction and Maintenance:** “It is noted that construction of fences to exclude feral animals and access via helicopter for fence maintenance to control destructive invasive alien plants and non-native animals” allowed if “necessary to preserve wilderness resources and ecosystem processes.” 67 Fed. Reg. 6944.

Sources (ordered by date):

- Designation of Wilderness Areas Part IV: Hearing on H.R. 13562 and H.R. 13563 Before the Subcomm. on National Parks and Recreation of the H. Comm. on Interior and Insular Affairs, 93rd Cong. 10–43, 87–115 (1974) (statement of Ronald Walker, Director, Nat’l Park Serv.) [hereinafter Walker Statement]*
- An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94–567, 90 Stat. 2692 (1976)
- Notice of Conversion of Potential Wilderness as Designated Wilderness, Haleakala National Park, 67 Fed. Reg. 6944 (Feb. 14, 2002)

4. Isle Royale Wilderness — 1976

Michigan

Responsible Agency: National Park Service
Initial Size (1976): 231 acres (Pub. L. No. 94-567, § 1(f))
Current Size: 93 acres (*see* 48 Fed. Reg. 12842 (announcing conversion of 138 acres consisting of two power line corridors where the line “was abandoned . . . dismantled and removed” to full wilderness in 1983))

Reasons for “potential” wilderness status:

- **Structures, Power Line, Special Use Permits, Commercial Fishing Bases, Life Leases, etc.:** “There are approximately 20 existing trailside shelters . . . included in areas of potential wilderness addition, and these areas shall become wilderness when the shelters are no longer needed.” S. REP. NO. 94-1357, at 5. “[N]o acreage is provided, but as these shelters are eliminated, the area upon which they stand will likewise become wilderness.” H.R. REP. NO. 93-1636, at 5. Other nonconforming uses consisted of: 4 commercial fishing bases, U.S. Coast Guard boathouse, a power line, ranger station facilities, and 11 life leases. *See id.*
 - In 2005, remaining non-conforming uses included: 3 “Volunteer in Park agreement[s] allowing residence,” 2 Special Use Permits, “NPS and researcher housing,” 2 “Special Use Permit[s] extending life lease use rights,” ranger station with fuel storage, 2 “NPS residence[s],” 4 life leases, “[b]oat house and trail to light house for past Coast Guard use,” and an “Artist in Residence Program cabin.” ISLE ROYALE EIS, at 24.

Achievement of wilderness designation / administration:

- **Conversion to Full Wilderness:** “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.” Pub. L. No. 94–567, § 3.
- **General Administration:** “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; *see also id.* § 6.
- **Boat Dock Maintenance, Power Line, Prescribed Burning:** “The Committee understands that no significant expansion of boat docks numbers is anticipated, but that continued maintenance of these facilities is essential to the continued ease of access as well as the health and safety of the visitors. The continued operation of a power line to Mt. Ojibway, and the use of prescribed burning are both management decisions which lie with the National Park Service pursuant to Sec. 4(a)(3) of the Wilderness Act. The Committee assumes these activities will continue with reference to testimony received from the” NPS. S. REP. NO. 94-1357, at 5.

Sources (ordered by date):

- i. H.R. REP. NO. 93-1636 (1974)
- ii. S. REP. NO. 94-1357 (1976)
- iii. An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)
- iv. Designation of Wilderness; Isle Royale National Park, 48 Fed. Reg. 12842 (Mar. 28, 1983)
- v. NATIONAL PARK SERVICE, WILDERNESS AND BACKCOUNTRY MANAGEMENT PLAN AND ENVIRONMENTAL IMPACT STATEMENT, ISLE ROYALE NATIONAL PARK (2005) [hereinafter ISLE ROYALE EIS].

5. Joshua Tree Wilderness — 1976 + 2009

California

Responsible Agency: National Park Service

Initial Size (1976): 30,740 acres (initially thought to be 37,550 due to miscalculation) (Pub. L. No. 94-567, § 1(g); 62 Fed. Reg. 28729) + 43,300 acres (Pub. L. No. 111-11, § 1851(c)(1) (2009))

Current Size: 62,138 to 62,238 acres (62 Fed. Reg. 28729-28730 (announcing conversion of 3,502.20 acres to full wilderness in 1997); *Daly Statement* at 24 (describing the intent in 2007 to incorporate “about 8,400 acres” designated as potential wilderness in 1976 due to private ownership “or use[] for non-wilderness purposes” as part of 36,800 acres of wilderness); see also Pub. L. No. 111-11 § 1851(b)(1)(F) (designating 36,700 acres as wilderness in 2009, presumably including 8,300 to 8,400 acres of 1976 potential wilderness))

Reasons for “potential” wilderness status:

- Non-Federal Ownership:
 - Potential wilderness designated in 1976 included private and state lands the Park Service was attempting to exchange or purchase, including 10,500 acres owned by the Southern Pacific Railroad Company arrayed in a “checkerboard pattern” with federal land. *Walker Statement*, at 97-98. “With the recent land acquisition progress exhibited here, it is anticipated that a significant amount of the potential wilderness addition acreage will soon be acquired and will then convert to wilderness status.” S. REP. NO. 94-1357, at 5-6.
 - Potential wilderness designated in 2009 included non-federally owned inholdings. Pub. L. No. 111-11 § 1851(c)(2)(B); see also *Daly Statement*, at 24 (explaining that “[a]bout one-third of the acreage is in private ownership” and “the park already is managing this area as wilderness”).

Achievement of wilderness designation / administration:

Potential Wilderness Designated in 1976:

- Conversion to Full Wilderness: “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.” Pub. L. No. 94-567, § 3.
- General Administration: “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; see also *id.* § 6.
- Wildlife Watering Devices: “Special management language . . . was deleted. It authorized the Secretary to construct and maintain wildlife watering devices and to use necessary manipulative techniques to perpetuate natural ecological conditions. While recognizing the necessity of this authority, . . . explanation of specific management functions are [sic] not appropriate in this legislation in light of Sec. 4(a)(3) of the Wilderness Act.” S. REP. NO. 94-1357, at 6.

Potential Wilderness Designated in 2009:

- Conversion to Full Wilderness: “The land designated potential wilderness . . . shall be designated as wilderness . . . effective upon publication by the Secretary of the Interior in the Federal Register of a notice that—(A) all uses of the land within the potential wilderness prohibited by the Wilderness Act . . . have ceased; and (B) sufficient inholdings within the boundaries of the potential wilderness have been acquired to establish a manageable wilderness unit.” Pub. L. No. 111-11 § 1851(c)(2).
- General Administration: “[D]esignated potential wilderness . . . shall be managed by the Secretary of the Interior insofar as practicable as wilderness until such time as the land is designated as wilderness.”

- Id.* § 1851(c)(1). “Subject to valid existing rights, the land designated as wilderness or as a [potential] wilderness addition by this section shall be administered by the Secretary in accordance with the Wilderness Act.” *Id.* § 1851(d)(1).
- **Fire, Insect, and Disease Control:** “The Secretary may take such measures in a wilderness area or wilderness addition designated by this section as are necessary for the control of fire, insects, and diseases in accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and House Report 98–40 of the 98th Congress.” *Id.* § 1851(d)(4)(A).
 - **Grazing:** “Grazing of livestock in a wilderness area or wilderness addition designated by this section shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 96–617 to accompany H.R. 5487 of the 96th Congress.” *Id.* § 1851(d)(5).
 - **Military Airspace Use:** “Nothing in this section precludes—(A) low-level overflights of military aircraft over the wilderness areas or wilderness additions designated by this section; (B) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this section; or (C) the use or establishment of military flight training routes over wilderness areas or wilderness additions designated by this section.” *Id.* § 1851(d)(7).

Sources (ordered by date):

- i. *Designation of Wilderness Areas Part IV: Hearing on H.R. 13562 and H.R. 13563 Before the Subcomm. on National Parks and Recreation of the H. Comm. on Interior and Insular Affairs, 93rd Cong. 10–43, 87–115 (1974) (statement of Ronald Walker, Director, Nat’l Park Serv.) [hereinafter Walker Statement]*
- ii. S. REP. NO. 94-1357 (1976)
- iii. An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94–567, 90 Stat. 2692 (1976)
- iv. Notice of Designation of Potential Wilderness, Joshua Tree National Park, 62 Fed. Reg. 28729–28730 (May 27, 1997)
- v. *Hearing on H.R. 2334, H.R. 2632, H.R. 3287, H.R. 3513, and H.R. 3682 Before the Subcomm. on National Parks, Forests and Public Lands of the H. Comm. on Natural Resources, 110th Cong. 21–41 (2007) (statement of Elena Daly, Director, National Landscape Conservation System, Bureau of Land Management) [hereinafter Daly Statement]*
- vi. Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

6. Phillip Burton Wilderness — 1976 (x 2)

California

Previous Name: Point Reyes Wilderness (changed by Pub. L. No. 99-68, 99 Stat. 166 (1985))
Responsible Agency: National Park Service
Initial Size (1976): 8,003 acres (Pub. L. No. 94–544, § 1; Pub. L. No. 94-567, § 1(k))
Current Size: 6,251 acres (64 Fed. Reg. 63057 (announcing conversion of 1,752 acres in “Muddy Hollow, Abotts Lagoon, and Limantour Area . . . [now] entirely in Federal ownership” to full wilderness in 1999))

Reasons for “potential” wilderness status:

- **Non-Federal Title, Structures, Commercial Oyster Farming:** “[P]otential wilderness . . . will automatically gain wilderness status when the Federal government gains full title to these lands, and when certain non-conforming uses and/or structures are eliminated.” S. REP. NO. 94-1357, at 7. “Limantour Estero . . . and Abotts lagoon . . . are subject to mineral and fishing rights owned by the State.” H.R. REP. NO. 94-1680, at 5. “Commercial oyster farming operations [in Drakes Estero] . . . and the reserved rights by the State on tidelands in this area make this acreage inconsistent with wilderness.” *Id.* at 6. Additionally, the “Muddy Hollow Road corridor . . . consists of a road and overhead electric power and telephone lines.” *Id.*

Achievement of wilderness designation / administration:

- **Conversion to Full Wilderness:** “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.” Pub. L. No. 94–567, § 3.

- **General Administration:** “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; *see also id.* § 6. “[T]he following lands . . . are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act: those lands comprising twenty-five thousand three hundred and seventy acres, and potential wilderness additions comprising eight thousand and three acres.” Pub. L. No. 94-544 § 1; *see also id.* § 3. “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.**” H.R. REP. NO. 94-1680, at 3 (emphasis added).
- **Fire Trail Maintenance, Emergencies:** “[M]echanized equipment may be necessary to maintain passable fire trails” and NPS does not have to “cope with an emergency, such as an oil spill, or the health and safety of park visitors, without the use of mechanized equipment” S. REP. NO. 94-1357, at 7.

Sources (ordered by date):

- Designation of Wilderness Areas Part IV: Hearing on H.R. 13562 and H.R. 13563 Before the Subcomm. on National Parks and Recreation of the H. Comm. on Interior and Insular Affairs, 93rd Cong. 10-43, 87-115 (1974) (statement of Ronald Walker, Director, Nat’l Park Serv.) [hereinafter Walker Statement]*
- An Act to Designate Certain Lands in the Point Reyes National Seashore, California, as Wilderness, Amending the Act of September 13, 1962 (76 Stat. 538), as Amended (16 U.S.C. 459c-6a), and for Other Purposes, Pub. L. No. 94-544, 90 Stat. 2515 (1976)
- H.R. REP. NO. 94-1680 (1976)
- S. REP. NO. 94-1357 (1976)
- An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)
- Notice of Designation of Potential Wilderness, Point Reyes National Seashore, 64 Fed. Reg. 63057 (Nov. 18, 1999)

7. Pinnacles Wilderness — 1976

California

Responsible Agency: National Park Service
Initial Size (1976): 990 acres (Pub. L. No. 94-567, § 1(i))
Current Size: 990 acres (?)

Reasons for “potential” wilderness status:

- **Non-Federal Ownership.** *See Talcott Statement* at 303.

Achievement of wilderness designation / administration:

- **Conversion to Full Wilderness:** “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.” Pub. L. No. 94-567, § 3.
- **General Administration:** “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; *see also id.* § 6.

Sources (ordered by date):

- Wilderness Additions—National Park System: Hearing on S. 885 and S. 1096, S. 1085 and S. 1675, S. 731 and S. 1069, S. 1068, S. 72 and S. 1092, S. 1093, S. 2472, and S. 97 and S. 1099 Before the S. Subcomm. on Parks and Recreation of the Comm. on Interior and Insular Affairs, 94th Cong. 300-305 (statement of Rep. Burt Talcott) [hereinafter Talcott Statement]*
- An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)

8. Shenandoah Wilderness — 1976

Virginia

Responsible Agency: National Park Service
Initial Size (1976): 560 acres (Pub. L. No. 94-567, § 1(m))
Current Size: 0 acres (43 Fed. Reg. 39188 (announcing conversion of all 560 acres of potential wilderness to full wilderness in 1978 after removal of power line and fire tower and transfer of special use permits “to a nonwilderness park road for the remaining lifetime of the current permittees” and permanent closure and blockage of potential wilderness road to “prevent further motorized use”))

Reasons for “potential” wilderness status:

- Fire Tower, Power Line, Fire Road, Special Use Permits: “[A]bandoned . . . fire tower, and an unused overhead powerline and a fire road that lead to the tower from opposite directions”; “fire road, upon which special use permits had been issued to stockmen of record at the time of the purchase of the park to permit the continuation of their traditional hauling of cattle from one side of the park to the other.” 43 Fed. Reg. 39188.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “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.” Pub. L. No. 94-567, § 3.
- General Administration: “[T]he following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.” *Id.* § 1; *see also id.* § 6.

Sources (ordered by date):

- i. An Act to Designate Certain Lands Within Units of the National Park System as Wilderness; to Revise the Boundaries of Certain of Those Units; and for Other Purposes, Pub. L. No. 94-567, 90 Stat. 2692 (1976)
- ii. Shenandoah National Park, VA, 43 Fed. Reg. 39188 (Sept. 1, 1978)

Potential Wilderness Areas Designated 1978

Pub. L. No. 95-625

9. Buffalo National River Wilderness	AR
10. Carlsbad Caverns Wilderness	NM
11. Gulf Islands Wilderness	FL
12. Hawaii Volcanoes Wilderness	HI
13. Marjory Stoneman Douglas Wilderness (Everglades Wilderness)	FL
14. Organ Pipe Cactus Wilderness	AZ

9. Buffalo National River Wilderness — 1978 Arkansas

Responsible Agency: National Park Service
Initial Size (1978): 25,471 acres (Pub. L. No. 95-625, § 401(1))
Current Size: 1,007 acres (58 Fed. Reg. 53746 (announcing conversion of all but 1,007 acres of potential wilderness to full wilderness in 1993, after “all non-Federal interests and uses prohibited by the Wilderness Act” were eliminated))

Reasons for “potential” wilderness status:

- Non-Federal Ownership, Motorized Boat Access: Non-conforming uses included “non-Federal interests and uses prohibited by the Wilderness Act.” 58 Fed. Reg. 53746. “Traditionally, Johnboats with motors have been used on the lower portion of the Buffalo River and it is felt that use of motors is a convenience to those who desire motorized access for fishing, but is not necessary for public enjoyment of the proposed wilderness.” INTERIOR STATEMENT at 85.
 - The remaining 1,007 acres “are divided between nine separate parcels in the three units of the BNR Wilderness Area,” mostly “use and occupancy reservations which will expire by the year 2004.” BNR PLAN, at 20.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- General Administration: “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*

Sources (ordered by date):

- i. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- ii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467
- iii. Buffalo National River, AR, 58 Fed. Reg. 53746 (Oct. 18, 1993)
- iv. NAT’L PARK SERV., BUFFALO NATIONAL RIVER WILDERNESS AND BACKCOUNTRY MANAGEMENT PLAN, ARKANSAS (1994?), available at <http://wilderness.nps.gov/document/buffalo.pdf> [hereinafter BNR PLAN]

10. Carlsbad Caverns Wilderness — 1978 New Mexico

Responsible Agency: National Park Service
Initial Size (1978): 320 acres (Pub. L. No. 95-625, § 401(2))
Current Size: 320 acres (?)

Reasons for “potential” wilderness status:

- Non-Federal Ownership: “The potential wilderness consists of private lands at the western end of the park.” INTERIOR STATEMENT at 87.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- General Administration: “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*

Sources (ordered by date):

- i. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- ii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467

11. Gulf Islands Wilderness — 1978

Florida

Responsible Agency: National Park Service
Initial Size (1978): 2,800 acres (Pub. L. No. 95-625, § 401(5))
Current Size: 520 acres (45 Fed. Reg. 46211 (announcing acquisition and conversion of 1,402.88 acres to full wilderness in 1980); 59 Fed. Reg. 18154 (announcing acquisition and conversion of 877.27 acres to full wilderness in 1994))

Reasons for “potential” wilderness status:

- Non-Federal Ownership: “The potential wilderness additions consists [sic] of outstanding private rights.” INTERIOR STATEMENT, at 95; *see also* 45 Fed. Reg. 46211; 59 Fed. Reg. 18154.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- General Administration: “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*
- Dock, Vault Toilets, Coast Guard Maintenance, Beach Clean-Up and Patrol: “The recommendation includes proposed special provisions for an administrative dock, use of vault toilets in primitive campsites, Coast Guard maintenance of navigation structures, and the use of small motor vehicles for beach clean-up and patrol in time of storms.” INTERIOR STATEMENT at 95. “In keeping with the committee’s position for beach and tidelands cleanup policy for Point Reyes National Seashore Wilderness, routine administrative use of motorized equipment shall not be permitted, and may occur only in emergency or very unusual situations.” H.R. REP. NO. 95-1165, at 74. “While it might not be practical or possible to remove such existing devices and facilities [including vault toilets, boat docks, wildlife watering devices, underground transmission lines, etc.], the addition of more of these incompatible items should not be permitted, and every effort should be made to eliminate those items now existing.” *Id.* at 75.
- Navigational and Maritime Safety: “Nothing in this title shall be construed to diminish the authority of the Coast Guard . . . or the Federal Aviation Administration to use the areas designated wilderness by this Act within . . . the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.” Pub. L. No. 95-625, § 405.

Sources (ordered by date):

- i. H.R. REP. NO. 95-1165 (1978)
- ii. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- iii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467
- iv. Gulf Islands National Seashore; Designation of Wilderness, 45 Fed. Reg. 46211 (Jul. 9, 1980)
- v. Designation of Wilderness, Gulf Islands National Seashore, MS, 59 Fed. Reg. 18154 (Apr. 15, 1994)

12. Hawaii Volcanoes Wilderness — 1978

Hawaii

Responsible Agency: National Park Service
Initial Size (1978): 7,850 acres (Pub. L. No. 95-625, § 401(6))
Current Size: 7,850 acres (?)

Reasons for “potential” wilderness status:

- Non-Federal Ownership: Potential wilderness consists of “privately owned lands within the park that possess wilderness qualities.” INTERIOR STATEMENT at 96.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- General Administration: “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*
- Shelter Maintenance, Feral Animal Control, Volcanic Research: “The draft legislation [] includes special provisions to maintain shelters within the wilderness, and to permit the use of motorized vehicles and special equipment for controlling feral animals and conducting volcanic research.” INTERIOR STATEMENT at 96.

Sources (ordered by date):

- i. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- ii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467

13. Marjory Stoneman Douglas Wilderness — 1978

Florida

Previous Name: Everglades Wilderness (changed by Pub. L. No. 105-82, § 3, 111 Stat. 1541 (1997))
Responsible Agency: National Park Service
Initial Size (1978): 81,900 acres (Pub. L. No. 95-625, § 401(3))
Current Size: 81,900 acres (see *Everglades Park Statistics*)

Reasons for “potential” wilderness status:

- Non-Federal Ownership, Mineral Rights, Isolated Federal Lands, Power Line: “The potential additions consist of private lands or areas with mineral rights, small areas of federal lands isolated by private holdings, and a powerline to be placed underground.” INTERIOR STATEMENT at 92.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- General Administration: “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*
- Motorboat Access: “The wilderness recommendation includes most of the submerged lands within the park to offer the highest protection to this significant ecosystem. Motorboating would continue as before in the waters over the submerged wilderness.” INTERIOR STATEMENT at 92. “The Secretary should give prompt consideration to the regulation of such use to minimize its adverse influence on the wildlife, and should further consider the advisability of permanently closing some of these routes by their later designation as wilderness.” H.R. REP. NO. 95-1165, at 73.
- Elimination of Non-Conforming Uses: “While it might not be practical or possible to remove [] existing devices and facilities [including boat docks, underground transmission lines, etc.], the addition of more of these incompatible items should not be permitted, and every effort should be made to eliminate those items now existing. *Id.* at 75.

- **Navigational and Maritime Safety:** “Nothing in this title shall be construed to diminish the authority of the Coast Guard . . . or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida . . . navigational and maritime safety purposes.” Pub. L. No. 95-625, § 405.

Sources (ordered by date):

- i. H.R. REP. NO. 95-1165 (1978)
- ii. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- iii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467
- iv. *Everglades Park Statistics*, NATIONAL PARK SERVICE, <http://www.nps.gov/ever/parknews/parkstatistics.htm> (last visited Nov. 26, 2011)

14. Organ Pipe Cactus Wilderness — 1978

Arizona

Responsible Agency: National Park Service
Initial Size (1978): 1,240 acres (Pub. L. No. 95-625, § 401(7))
Current Size: 1,240 acres (?)

Reasons for “potential” wilderness status:

- **Overhead Power Line:** “The potential wilderness additions contain an overhead powerline. The area could qualify as wilderness when the powerline is placed underground or relocated.” INTERIOR STATEMENT at 99 (discussing an earlier proposal including 9,000 acres of potential wilderness).

Achievement of wilderness designation / administration:

- **Conversion to Full Wilderness:** “Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 95-625, § 403.
- **General Administration:** “Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated wilderness.” *Id.*

Sources (ordered by date):

- i. SUBCOMM. ON NATIONAL PARKS AND INSULAR AFFAIRS OF THE H. COMM. ON INTERIOR AND INSULAR AFFAIRS, LEGIS. HISTORY OF THE NATIONAL PARKS AND RECREATION ACT OF 1978, at 9–113 (1978) (statement of witness for the Department of the Interior) [hereinafter INTERIOR STATEMENT]
- ii. National Parks and Recreation Act of 1978, Pub. L. No. 95-625, 92 Stat. 3467

Potential Wilderness Areas Designated in 1979

Pub. L. No. 96-87 Great Sand Dunes Wilderness CO
(Discussed as #2 under “Potential Wilderness Areas Designated 1976,” at page A-1)

Potential Wilderness Areas Designated in 1980

Pub. L. No. 96-585 15. Otis Pike Fire Island High Dune Wilderness NY

15. Otis Pike Fire Island High Dune Wilderness — 1980 *New York*

Responsible Agency: National Park Service
Initial Size (1980): 18 acres (Pub. L. No. 96-585, § a)
Current Size: 1 acre (64 Fed. Reg. 55308 (announcing conversion of 17 acres to full wilderness in 1999 after elimination of all non-federal ownership and non-conforming uses except the “Smith Point boardwalk nature trail” and “boardwalk, dune crossing and bathhouse at Old Inlet”))

Reasons for “potential” wilderness status:

- Non-Federal Ownership, Structures, Access Roads: Potential wilderness includes 21 “sites of [] residential structures and their associated access roads,” “vehicle cuts . . . [and] sand roads leading from them to the access roads to the [] residences . . . and the access road to Watch Hill,” “[t]he sites of the [] Watch Hill horse stable and maintenance yard, and the access roads leading to them” and access roads, “[t]he [] Long Cove boardwalk nature trail,” and “the boardwalk nature trail at Smith point and the boardwalk, dune crossing and bathhouse at Old Inlet.” 64 Fed. Reg. 55308

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses prohibited thereon by the Wilderness Act have ceased, shall thereby be designated wilderness.” Pub. L. No. 96-585, § c.
- General Administration: “Pending such designation, the Secretary shall administer such lands in such manner as to preserve, insofar as is possible, their wilderness or potential wilderness character.” *Id.*
- Repair of Breaches: “Wilderness designation shall not preclude the repair of breaches that occur in the wilderness area, in order to prevent loss of life, flooding, and other severe economic and physical damage to the Great South Bay and surrounding areas.” *Id.* § d.

Sources (ordered by date):

- i. An Act to Designate Certain Lands of the Fire Island National Seashore as the “Otis Pike Fire Island High Dune Wilderness”, and for Other Purposes, Pub. L. No. 96-585, 94 Stat. 3379 (1980)
- ii. Notice of Designation of Potential Wilderness as Wilderness, Fire Island National Seashore, 64 Fed. Reg. 55308 (Oct. 12, 1999)

Potential Wilderness Areas Designated in 1982

Pub. L. No. 97-250 16. Cumberland Island Wilderness GA

16. Cumberland Island Wilderness — 1982 + 2004 Georgia

Responsible Agency: National Park Service
Initial Size (1982): 10,500 acres (Pub. L. No. 97-250, § 2(a)(4), (c)(2) (as amended by Pub. L. No. 108-447, § 145(a) in 2004) ~~11,718 acres (Pub. L. No. 97-250, § 2(a))~~
Current Size: 10,500 acres (?)

Reasons for "potential" wilderness status:

- Non-Federal Ownership: "Most of the potential wilderness is intertidal area owned by the State of Georgia." S. REP. NO. 97-531, at 3.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "[T]he Secretary shall . . . on acquisition of the approximately 231 acres of land identified on the map as 'Areas Become Designated Wilderness upon Acquisition by the NPS'; and . . . on publication in the Federal Register of a notice that all uses of the approximately 10,500 acres of land depicted on the map as 'Potential Wilderness' that are prohibited under the Wilderness Act . . . have ceased, adjust the boundary of the Wilderness to include the land." Pub. L. No. 97-250, § 2(c)(2) (as amended by Pub. L. No. 108-447 § 145(a)). ~~"Certain other lands in the Seashore . . . which are designated . . . as 'Potential Wilderness', are, effective 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, designated wilderness. Such notice shall be published with respect to any tract . . . after the Secretary has determined that such uses have ceased on that tract."~~ Pub. L. No. 97-250, § 2(a).
- General Administration: "Subject to valid existing rights, the Wilderness shall be administered by the Secretary, in accordance with the applicable provisions of the Wilderness Act . . . governing areas designated by that Act as wilderness areas." Pub. L. No. 97-250, § 2(e) (as amended by Pub. L. No. 108-447 § 145(a)).
- Utility Service: "Any person with a right to utility service on Cumberland Island on the date of enactment of this subsection shall continue to have the right to utility service in the Wilderness after the date of enactment of this subsection." Pub. L. No. 97-250, § 2(f) (as amended by Pub. L. No. 108-447 § 145(a)).
- Roads: "[P]ortions of the island's existing primitive roads are included within the designated wilderness and potential wilderness areas." S. Rep. No. 97-531, at 3. "The 25-foot wide roadways depicted on the map as the 'Main Road', 'Plum Orchard', and the 'North Cut Road' shall not be included in the Wilderness and shall be maintained by the Secretary for continued vehicle use." Pub. L. No. 97-250, § 2(b)(2) (as amended by Pub. L. No. 108-447 § 145(a)). "[T]he Secretary shall complete a management plan to ensure that not more than 8 and not less than 5 round trips are made available daily on the Main Road north of the Plum Orchard Spur and the North Cut Road by the National Park Service or a concessionaire for the purpose of transporting visitors to and from the historic sites located adjacent to Wilderness." Pub. L. No. 97-250, § 2(g) (as amended by Pub. L. No. 108-447 § 145(a)).

Sources (ordered by date):

- i. S. REP. NO. 97-531 (1982)
- ii. An Act to Correct the Boundary of Crater Lake National Park in the State of Oregon and for Other Purposes, Pub. L. No. 97-250, § 2, 96 Stat. 709 (1982) (as amended 2004 by sec. 145(a) of Pub. L. No. 108-447)
- iii. H.R. REP. NO. 108-738 (2004)
- iv. Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, § 145(a), 118 Stat. 2809 (2004) (amending Pub. L. No. 97-250 by striking and replacing sec. 2)

Potential Wilderness Areas Designated in 1984

Pub. L. No. 98-425

- | | |
|--|----|
| 17. Sequoia-Kings Canyon National Parks Wilderness | CA |
| 18. Yosemite National Park Wilderness | CA |

17. Sequoia-Kings Canyon National Parks Wilderness — 1984

California

Responsible Agency: National Park Service
Initial Size (1984): 100 acres (Pub. L. No. 98-425, § 106(2))
Current Size: 100 acres (?)

Reasons for "potential" wilderness status:

- Visitor Use Developments, Other: “[V]isitor use developments at Bearpaw Meadow and Pear Lake . . . are designated as 30 acre enclaves of potential wilderness addition, in the identical manner and with the identical treatment as is given the ‘high sierra camps’ in Yosemite. If and when . . . [their] continued operation . . . at the then current acceptable operational standard results in an increased adverse impact on the adjacent wilderness environment [and the enclaves themselves, operation] . . . shall be promptly terminated, the facilities removed, the sites naturalized, and . . . the areas promptly designated as wilderness.” H.R. REP. NO. 96-1223, at 46. Other (?).

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands (in section 106 of this title) 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.” Pub. L. No. 98-425, § 108.
- General Administration: “Lands designated as potential wilderness additions shall be managed . . . insofar as practicable as wilderness until such time as said lands are designated as wilderness.” *Id.*
- Hydrometeorological Devices, Helicopter Use: Hydrometeorological devices “serve a critically essential purpose for many interests. Modifications, relocations, adjustments and maintenance of these devices are therefore acceptable, but it should remain an objective to minimize any adverse impact of these devices upon wilderness resources where possible.” H.R. REP. NO. 96-1223, at 47. “Helicopter use for routine nonemergency purposes associated with visitor use is a questionable activity in national park system wilderness areas and should be eliminated.” *Id.*

Sources (ordered by date):

- i. H.R. REP. NO. 96-1223 (1980)
- ii. California Wilderness Act of 1984, Pub. L. No. 98-425, 98 Stat. 1619

19. Yosemite National Park Wilderness — 1984

California

Responsible Agency: National Park Service
Initial Size (1984): 3,550 acres (Pub. L. No. 98-425, § 106(1))
Current Size: 3,550 acres (?)

Reasons for "potential" wilderness status:

- Non-Federal Ownership, Power Line Corridor, Hetch Hetchy, Other(?): 50-acre power line corridor. H.R. REP. NO. 96-1223, at 45. “It is intended that the [Hetch Hetchy] dam be set aside in wilderness reserve until such time as the dam is removed. Lake Eleanor is included in the wilderness, but the Committee may wish to put this dam in wilderness reserve, too.” *Cranston Statement*, at 269. A “121-acre potential wilderness addition is a tract . . . granted to . . . San Francisco . . . [that] has not been utilized for the [Hetch Hetchy] project and is in a wilderness condition.” *Everhardt Statement*, at 313. Other (?).

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands (in section 106 of this title) 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.” Pub. L. No. 98-425, § 108.
- General Administration: “Lands designated as potential wilderness additions shall be managed . . . insofar as practicable as wilderness until such time as said lands are designated as wilderness.” *Id.*
- Hydrometeorological Devices, Helicopter Use: Hydrometeorological devices “serve a critically essential purpose for many interests. Modifications, relocations, adjustments and maintenance of these devices are therefore acceptable, but it should remain an objective to minimize any adverse impact of these devices upon wilderness resources where possible.” H.R. REP. NO. 96-1223, at 47. “Helicopter use for routine nonemergency purposes associated with visitor use is a questionable activity in national park system wilderness areas and should be eliminated.” *Id.*

Sources (ordered by date):

- i. *Wilderness Additions—National Park System: Hearing on S. 885 and S. 1096, S. 1085 and S. 1675, S. 731 and S. 1069, S. 1068, S. 72 and S. 1092, S. 1093, S. 2472, and S. 97 and S. 1099 Before the S. Subcomm. on Parks and Recreation of the Comm. on Interior and Insular Affairs, 94th Cong. 264–273 (statement of Sen. Alan Cranston) [hereinafter *Cranston Statement*]*
- ii. *Wilderness Additions—National Park System: Hearing on S. 885 and S. 1096, S. 1085 and S. 1675, S. 731 and S. 1069, S. 1068, S. 72 and S. 1092, S. 1093, S. 2472, and S. 97 and S. 1099 Before the S. Subcomm. on Parks and Recreation of the Comm. on Interior and Insular Affairs, 94th Cong. 306–324 (statement of Gary Everhardt, Director, Nat’l Park Serv.) [hereinafter *Everhardt Statement*]*
- iii. H.R. REP. NO. 96-1223 (1980)
- iv. California Wilderness Act of 1984, Pub. L. No. 98-425, 98 Stat. 1619

Potential Wilderness Areas Designated in 1988

Pub. L. No. 100-524 19. Congaree National Park Wilderness SC

Pub. L. No. 100-688

20. Olympic Wilderness WA
21. Stephen Mather Wilderness WA

19. Congaree National Park Wilderness — 1988 *South Carolina*

Previous Name: Congaree Swamp National Monument Wilderness (changed by Pub. L. No. 108-199, § 139(b), 118 Stat. 3 (2004))

Responsible Agency: National Park Service

Initial Size (1988): 6,840 acres (Pub. L. No. 100-524 § 2(b))

Current Size: 6,840 acres (?)

Reasons for "potential" wilderness status:

- Non-Federal Ownership, Road: "[P]otential wilderness areas would be designated as wilderness at such time as they are acquired by the Park Service and uses incompatible with wilderness designation are terminated or phased out." S. REP. NO. 100-449, at 3. Road. *Id.* at 5.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "Any lands designated as potential wilderness additions shall, upon acquisition of any non-Federal interests in land and publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, thereby be designated wilderness . . . and shall be managed in accordance with the Wilderness Act." Pub. L. No. 100-524 § 2(b).
- General Administration: Potential wilderness "shall be managed by the Secretary Interior . . . insofar as practicable as wilderness until such time as said lands are designated as wilderness." *Id.*
- Valid Existing Rights: "Subject to valid existing rights, the lands designated as wilderness pursuant to this Act shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness." *Id.* § 4.
- Road Access: "Under the potential wilderness designation [of the road west of Weston Lake identified as potential wilderness], only minimal motor vehicle access by the state agency should be permitted for [the] purpose [of servicing and maintaining an air quality monitoring station] and for eventual relocation of the monitoring station." S. REP. NO. 100-449, at 5.

Sources (ordered by date):

- i. S. REP. NO. 100-449 (1988)
- ii. Congaree Swamp National Monument Expansion and Wilderness Act, Pub. L. No. 100-524, 102 Stat. 2606 (1988)

20. Olympic Wilderness — 1988 *Washington*

Responsible Agency: National Park Service

Initial Size (1988): 378 acres (Pub. L. No. 100-688, § 101(a)(1))

Current Size: 378 acres (?)

Reasons for "potential" wilderness status:

- Non-Federal Ownership: "If and when the National Park Service acquires the rights to these lands, they would become wilderness as well." H.R. REP. NO. 100-961, at 7.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-Federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.” Pub. L. No. 100-688, § 401(a)(2).
- General Administration: “Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness.” *Id.* “Subject to valid existing rights, the wilderness areas designated under titles I, II, and III of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.” *Id.* § 401(a)(1).
- Power Line: “The Secretary is authorized to upgrade, maintain and replace, as necessary, the Wolf Creek underground powerline to Hurricane Ridge: Provided, That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to remain consistent with wilderness management.” *Id.* § 102.

Sources (ordered by date):

- i. H.R. REP. NO. 100-961 (1988)
- ii. Washington Park Wilderness Act of 1988, Pub. L. No. 100-688, 102 Stat. 3961

21. Stephen Mather Wilderness — 1988

Washington

Responsible Agency: National Park Service
Initial Size (1988): 5,226 acres (Pub. L. No. 100-688, § 201(a)(1))
Current Size: 5,226 acres (?)

Reasons for “potential” wilderness status:

- Patented Mining Claims, Planned Flooding, Road, Structures(?): 5,000 acres in the Lake Chelan National Recreational Area and 226 acres in North Cascades National Park. STATE OF THE STEPHEN MATHER WILDERNESS, at 1-1. “These lands possess wilderness character but are prevented from wilderness designation by encumbrances including patented mining claims, potential plans for flooding due to the construction of the High Ross Dam, and the existence of a road.” *Id.* Additionally, nineteen “historic structures are located within wilderness and potential wilderness,” but these do not seem to bear on full wilderness status. *Id.* at 4-15.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-Federal interests in land have been acquired, shall thereby be designated as wilderness and managed accordingly.” Pub. L. No. 100-688, § 401(a)(2).
- General Administration: “Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness.” *Id.* “Subject to valid existing rights, the wilderness areas designated under titles I, II, and III of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.” *Id.* § 401(a)(1).

Sources (ordered by date):

- i. H.R. REP. NO. 100-961 (1988)
- ii. Washington Park Wilderness Act of 1988, Pub. L. No. 100-688, 102 Stat. 3961
- iii. NAT’L PARK SERV., STATE OF THE STEPHEN MATHER WILDERNESS (1994), *available at* http://wilderness.nps.gov/document/stephen_mather.pdf

Potential Wilderness Areas Designated in 1992

Pub. L. No. 102-301 22. Chumash Wilderness

CA

22. Chumash Wilderness — 1992

California

Responsible Agency: Forest Service
Initial Size (1992): 50 acres (Pub. L. No. 102-301, § 2(5))
Current Size: 50 acres (?)

Reasons for "potential" wilderness status:

- Road Corridor with ORV Traffic: "The [50-acre] Toad Springs road corridor delineated as potential wilderness shall remain open to off road vehicle traffic until construction of an alternate route which bypasses this area is completed." Pub. L. No. 102-301 § 2(5); H.R. REP. 102-290, at 5.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "These potential wilderness lands shall be automatically incorporated in and managed as part of the Chumash Wilderness upon publication of a notice [that an alternate route has been constructed] in the Federal Register." Pub. L. No. 102-301 § 2(5).
- General Administration: "Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act." *Id.* § 3(a).
- Fire Prevention and Watershed Protection: "In order to guarantee the continued viability of the watersheds of the wilderness areas designated by this Act and to ensure the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture may take such measures as are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques." *Id.* § 3(b).
- Wildlife Management: "In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations, including the California condor, and the habitats to support such populations may be carried out within wilderness areas designated by this Act where consistent with the relevant wilderness management plans in accordance with appropriate policies and guidelines such as those set forth in Policies and guidelines for Fish and Wildlife Management in National Forests and Bureau of Land Management Wilderness, dated August 25, 1986." *Id.* § 3(c).

Sources (ordered by date):

- i. H.R. REP. 102-290 (1991)
- ii. Los Padres Condor Range and River Protection Act, Pub. L. No. 102-301, 106 Stat. 242 (1992)

Potential Wilderness Areas Designated in 1994

Pub. L. No. 103-433 23. Death Valley Wilderness CA

23. Death Valley Wilderness — 1994 *California*

Responsible Agency: National Park Service
Initial Size (1994): 6,848 acres (Pub. L. No. 103-433, § 601(b))
Current Size: 6,848 acres (?)

Reasons for “potential” wilderness status:

- Power Line Corridor: “The California Desert Protection Act . . . provides for the potential automatic creation of another 6,840 acres of wilderness along a powerline corridor from Furnace Creek to Stovepipe Wells upon cessation of powerline use.” GMP, at 63.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness . . . shall be deemed to be a part of the Death Valley Wilderness.” Pub. L. No. 103-433 § 601(b).
- General Administration: “Lands identified . . . as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.” *Id.* § 601(b). “Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.” *Id.* § 704.
- Access to Private Property, Roads, Military Overflights: “The Secretary shall provide adequate access to nonfederally owned land or interests in land within the boundaries of the conservation units and wilderness areas designated by this Act which will provide the owner of such land or interest the reasonable use and enjoyment thereof.” *Id.* § 708. “Although over 95% of Death Valley is designated as wilderness, about 700 miles of roads (paved and dirt) remain open within this Park.” GMP, at 64. Military Overflights. Pub. L. No. 103-433, § 801.

Sources (ordered by date):

- i. California Protection Act of 1994, Pub. L. No. 103-433, 108 Stat. 4471
- ii. NATIONAL PARK SERVICE, DEATH VALLEY NATIONAL PARK GENERAL MANAGEMENT PLAN (2002), available at http://www.nps.gov/deva/parkmgmt/upload/GMP_001.pdf [hereinafter GMP]

Potential Wilderness Areas Designated in 2004

Pub. L. No. 108-447 Cumberland Island Wilderness GA
(Discussed as #16 under “Potential Wilderness Areas Designated 1982,” at page A-13)

Potential Wilderness Areas Designated in 2006

Pub. L. No. 109-362 24. Elkhorn Ridge Wilderness

CA

24. Elkhorn Ridge Wilderness — 2006

California

Responsible Agency: Bureau of Land Management
Initial Size (2006): 11,271 acres (Pub. L. No. 109-362, § 6(a))
Current Size: 0 acres (76 Fed. Reg. 2411 (announcing conversion to full wilderness of all potential wilderness in 2011, because “impacts from past activities are successfully recovering through natural rehabilitation and are compatible with . . . wilderness designation”))

Reasons for “potential” wilderness status:

- Ecological Degradation from Logging: “The Elkhorn Ridge area’s designation as a potential wilderness was intended to provide the Secretary of the Interior, through the BLM, time to assess and, if necessary, restore 1,565 acres of previously logged private in-holdings acquired shortly before the Act’s passage.” 76 Fed. Reg. 2411.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—(1) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act . . . have been removed; or (2) the date that is 5 years after the date of enactment of this Act.” Pub. L. No. 109-362, § 6(d).
- General Administration: “Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness.” *Id.* § 6(b).
- Ecological Restoration: “For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may use motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness.” *Id.* § 6(c)(1). “To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.” *Id.* § 6(c)(2).

Sources (ordered by date):

- i. Northern California Coastal Wild Heritage Wilderness Act, Pub. L. No. 109-362, 120 Stat. 2064 (2006)
- ii. Notice of Designation of Elkhorn Ridge Wilderness, California, 76 Fed. Reg. 2411 (Jan. 13, 2011)

Potential Wilderness Areas Designated in 2009

Pub. L. No. 111-11

25.	John Krebs Wilderness	CA
	Joshua Tree Wilderness	CA
	(Discussed as #5 under “Potential Wilderness Areas Designated 1976,” at page A-4)	
26.	Kimberling Creek Wilderness	VA
27.	Oregon Badlands Wilderness	OR
28.	Roaring River Wilderness	OR
29.	Rocky Mountain National Park Wilderness	CO

25. John Krebs Wilderness — 2009

California

Responsible Agency: National Park Service
Initial Size (2009): 130 acres (Pub. L. No. 111-11, § 1902(1)(A))
Current Size: 130 acres (?)

Reasons for “potential” wilderness status:

- Dams and Impoundments: “The designation of the potential wilderness additions . . . shall not prohibit the operation, maintenance, and repair of the small check dams and water impoundments on Lower Franklin Lake, Crystal Lake, Upper Monarch Lake, and Eagle Lake. The Secretary is authorized to allow the use of helicopters for the operation, maintenance, and repair.” Pub. L. No. 111-11, § 1902(1)(C). “Designation as potential wilderness additions would allow Southern California Edison . . . to continue its hydroelectric power operation as long as it wants. However, in the event that the operator . . . ceases to operate them in the future, the National Park Service would have the option to convert the area to wilderness through administrative action.” *Taylor-Goodrich Statement*, at 15.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: The potential wilderness additions shall be designated as wilderness and incorporated into the John Krebs Wilderness established by this section upon termination of the non-conforming uses.” Pub. L. No. 111-11, § 1902(1)(C).

Sources (ordered by date):

- Current National Parks Legislation: Hearing Before the Subcomm. on National Parks of the S. Comm. on Energy and Natural Resources*, 110th Cong., at 12–24 (2008) (statement of Karen Taylor-Goodrich, Associate Director, Visitor and Resource Protection, National Park Service) [hereinafter *Taylor-Goodrich Statement*]
- Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

26. Kimberling Creek Wilderness — 2009

Virginia

Responsible Agency: Forest Service
Initial Size (2009): 349 acres (Pub. L. No. 111-11, § 1103(a))
Current Size: 349 acres (?)

Reasons for “potential” wilderness status:

- Extensive Road Network: “The Kimberling Creek addition was recently acquired as NFS land and in its current condition does not contain the basic natural characteristics that make it suitable for wilderness due to an extensive road network.” *Holtrop Statement*, at 3

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “The potential wilderness area shall be designated as wilderness and incorporated in the Kimberling Creek Wilderness on the earlier of—(1) the date on which the Secretary

publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act . . . have been removed; or (2) the date that is 5 years after the date of enactment of this Act.” Pub. L. No. 111-11, § 1103(c)(2)(d).

- **General Administration:** “Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area in accordance with the Wilderness Act.” *Id.* § 1103(b).
- **Ecological Restoration:** “For purposes of ecological restoration (including the elimination of nonnative species, removal of illegal, unused, or decommissioned roads, and any other activity necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may use motorized equipment and mechanized transport in the potential wilderness area until the date on which the potential wilderness area is incorporated into the Kimberling Creek Wilderness.” *Id.* § 1103(c)(1). “To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.” *Id.* § 1103(c)(2).

Sources (ordered by date):

- i. *Hearing on H.R. 1011 Before the Subcomm. on National Parks, Forests & Public Lands of the H. Comm. on Natural Resources*, 110th Cong. (2007) (statement of Joel Holtrop, Deputy Chief, Forest Service), available at <http://naturalresources.house.gov/uploadedfiles/holtroptestimony05.10.07.pdf> [hereinafter *Holtrop Statement*].
- ii. Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

27. Oregon Badlands Wilderness — 2009

Oregon

Responsible Agency: Bureau of Land Management
Initial Size (2009): 25-foot-wide road corridor (Pub. L. No. 111-11, § 1702(c)(1))
Current Size: 25-foot-wide corridor (?)

Reasons for “potential” wilderness status:

- **Road Corridor for Sled Dog Training:** “In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), a corridor of certain Federal land managed by the Bureau of Land Management with a width of 25 feet, as generally depicted on the wilderness map as ‘Potential Wilderness’, is designated as potential wilderness.” Pub. L. No. 111-11, § 1702(c)(1). The corridor “accommodate[s] the existing use of the route for purposes relating to the training of sled dogs by Rachael Scdoris . . . a visually-impaired sled dog musher living outside of Bend, Oregon It is our understanding that the techniques she uses to train her dogs involve both motorized and mechanized transport.” *Nedd Statement*.

Achievement of wilderness designation / administration:

- **Conversion to Full Wilderness:** “On the date on which the Secretary publishes in the Federal Register notice that any nonconforming uses in the potential wilderness designated by paragraph (1) that are permitted under paragraph (2) have terminated, the potential wilderness shall be—(A) designated as wilderness and as a component of the National Wilderness Preservation System; and (B) incorporated into the Oregon Badlands Wilderness.” Pub. L. No. 111-11, § 1702(c)(3).
- **General Administration:** “The potential wilderness . . . shall be managed in accordance with the Wilderness Act . . . , except that the Secretary may allow nonconforming uses that are authorized and in existence on the date of enactment of this Act to continue in the potential wilderness.” *Id.* § 1702(c)(2). “Subject to valid existing rights, the Oregon Badlands Wilderness shall be administered by the Secretary in accordance with the Wilderness Act.” *Id.* § 1702(b)(1).
- **Incorporation of Acquired Land and Interests:** “Any land or interest in land within the boundary of the Oregon Badlands Wilderness that is acquired by the United States shall— (A) become part of the Oregon Badlands Wilderness; and (B) be managed in accordance with this subtitle, the Wilderness Act . . . , and any other applicable law.” *Id.* § 1702(b)(2).
- **Grazing:** “The grazing of livestock . . . , if established before the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as are considered necessary by the Secretary in accordance with—(A) section 4(d)(4) of the Wilderness Act . . . and (B) the guidelines set forth in

Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405)." *Id.* § 1702(b)(3).

- Access to Private Property: "In accordance with section 5(a) of the Wilderness Act . . . , the Secretary shall provide any owner of private property within the boundary of the Oregon Badlands Wilderness adequate access to the property." *Id.* § 1702(b)(4).

Sources (ordered by date):

- i. *Hearing on S. 3088 Before the Subcomm. on Public Lands and Forests of the S. Comm. on Energy and Natural Resources*, 110th Cong. (2008) (statement of Michael Nedd, Assistant Director, Minerals and Realty Management, Bureau of Land Management), available at http://www.doi.gov/ocl/2006/S3088andS3089_070908.htm [hereinafter *Nedd Statement*]
- ii. Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

28. Roaring River Wilderness — 2009

Oregon

Responsible Agency: Forest Service
Initial Size (2009): 900 acres (Pub. L. No. 111-11, § 1202(c)(1)(A))
Current Size: 900 acres (?)

Reasons for "potential" wilderness status:

- The "potential wilderness area . . . has been altered by human influences relating to timber harvests." S. REP. NO. 110-172, at 16.

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: "On the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act . . . , the potential wilderness shall be— (i) designated as wilderness and as a component of the National Wilderness Preservation System; and (ii) incorporated into the Roaring River Wilderness designated by subsection (a)(6)." Pub. L. No. 111-11, § 1202(c)(1)(C).
- General Administration: "The potential wilderness area designated by subparagraph (A) shall be managed in accordance with section 4 of the Wilderness Act." *Id.* § 1202(c)(1)(B). "Subject to valid existing rights, each area designated as wilderness by this section shall be administered by the Secretary that has jurisdiction over the land within the wilderness, in accordance with the Wilderness Act." *Id.* § 1202(e)(1).
- Incorporation of Acquired Land and Interests: "Any land within the boundary of a wilderness area designated by this section that is acquired by the United States shall— (A) become part of the wilderness area in which the land is located; and (B) be managed in accordance with this section, the Wilderness Act . . . , and any other applicable law. *Id.* § 1202(e)(2).
- State Wildlife Jurisdiction and Responsibility: "Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife." *Id.* § 1202(g).
- Fire, Insect, Disease Control: "As provided in section 4(d)(1) of the Wilderness Act . . . , within the wilderness areas designated by this section, the Secretary . . . may take such measures as are necessary to control fire, insects, and diseases, subject to such terms and conditions as the Secretary determines to be desirable and appropriate." *Id.* § 1202(h).

Sources (ordered by date):

- i. S. REP. NO. 110-172 (2007)
- ii. Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

29. Rocky Mountain National Park Wilderness — 2009

Colorado

Responsible Agency: National Park Service
Initial Size (2009): 5,169 acres (?) (see Pub. L. No. 111-11, § 1952(c) (omitting acreage or other description); but see S. REP. NO. 110-358, at 6 (explaining that “[s]ubsection (c) designates approximately 5,169 acres of lands within the park as potential wilderness”)
Current Size: 5,169 acres (?)

Reasons for “potential” wilderness status:

- Non-Federal Ownership, Life Tenancy, Other(?): “The areas recommended as potential wilderness additions include . . . Federal land with life tenancy and . . . [land] in private ownership.” 1974 Correction. Other (?).

Achievement of wilderness designation / administration:

- Conversion to Full Wilderness: “On publication in the Federal Register of a notice by the Secretary that all uses inconsistent with the Wilderness Act . . . have ceased on the land identified on the map as a “Potential Wilderness Area”, the land shall be—(A) included in the Wilderness; and (B) administered in accordance with subsection (e).” Pub. L. No. 111-11, § 1952(c)(1).
- General Administration: “Subject to valid existing rights, any land designated as wilderness under this section or added to the Wilderness after the date of enactment of this Act under subsection (c) shall be administered by the Secretary in accordance with this subtitle and the Wilderness Act.” *Id.* § 1952(e).
- Fire, Insect, Disease Control: “The Secretary may take such measures in the Wilderness as are necessary to control fire, insects, and diseases, as are provided for in accordance with—(1) the laws applicable to the Park; and (2) the Wilderness Act.” *Id.* § 1952(g).

Sources (ordered by date):

- i. Correction to Wilderness Report for Rocky Mountain National Park, Colorado (1974), available at <http://wilderness.nps.gov/document/11-17.pdf>, at 4 [hereinafter 1974 Correction]
- ii. S. REP. NO. 110-358 (2008)
- iii. Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991

APPENDIX B.

Review of Scientific Evidence of DBOC Environmental Impacts

Mariculture Impacts on the Spread of Invasive Species

Based on the research that is available, one significant environmental threat to Drakes Estero from oyster mariculture is through introduction of the invasive tunicate *Didemnum vexillum*. *D. vexillum* is a non-native tunicate with worldwide impact, having spread to Europe (Gittenberger 2007), New Zealand (Kott 2004), and both coasts of North America (Bullard *et al.* 2007) (Herborg *et al.*). *D. vexillum* propagates rapidly, and can reproduce sexually and asexually; it also currently has no known predators (Carman *et al.*) and is capable of tolerating a wide range of temperature, salinity, and water quality conditions (Herborg *et al.*). *D. vexillum* can be considered an “ecosystem engineer” because it has the capacity to “drastically adversely modify the habitats it invades (Wallentinus and Nyberg 2007)” (Lambert). As with other tunicates, *D. vexillum* grows on hard substrates. According to the National Academies Press, *D. vexillum* covers approximately half of the sub-tidal surfaces of cultivated oysters’ shells and oyster mariculture apparatus in Drakes Estero, according to the committee’s observations during its September 2008 visit (NRC at 56).

In addition to having introduced the tunicate in the first place, the ongoing presence of oyster mariculture likely encourages the continuation and propagation of *D. vexillum* in Drakes Estero. As discussed above, *D. vexillum* depends on hard substrates, such as those provided by oyster shells and oyster racks, to grow. In addition, there is an added risk that in the process of oyster mariculture, because workers might break off pieces of the tunicate, facilitating its asexual reproduction. Because of these possibilities, we find the National Research Council’s conclusion that removing the oyster mariculture would help end the continuation and spread of *D. vexillum* in Drakes Estero to be likely (NRC at 56). Also, considering *D. vexillum*’s rapid spread in conjunction with its already expansive invasion in Drakes Estero, we assert that the potential impacts of waiting ten years to remove the exacerbating oyster mariculture from the area should be seriously assessed.

One of the risks presented by allowing *D. vexillum* to flourish is the danger it poses to native eelgrass ecosystems. A study performed in a Massachusetts lake published in 2010, recorded the first observation of *D. vexillum* attached to eelgrass (Carman *et al.*). More troubling still, “*D. vexillum* has recently been reported colonizing eelgrass blades at presently low levels in Tomales.” (NRC at 55). Although more scientific study is needed to draw definite conclusions about the result of *D. vexillum*’s use of eelgrass as a substrate, it is reasonable to predict that when attached to Eelgrass, the tunicate “may block the plants’ basic processes, including photosynthesis, release of seeds, and natural defoliation.” (Carman *et al.*)

In light of the points discussed above, we find it likely that the invasive tunicate *D. vexillum*, whose propagation is augmented by the presence of oyster mariculture gear and its processes, will have a negative effect on the natural ecology of the area; specifically, it may decrease the amount of the protected native eelgrass habitat. We therefore agree that “[t]he ecological effects of invasive tunicates introduced to sea grass...remain unassessed, but in general, the majority of introduced epibionts have negative effects on marine flora” (Williams 2007), as well as with the NRC report, which states that *D. vexillum* is “an ecological threat to many native and nonnative invertebrate taxa (Osman and Whitlatch, 2007; Mercer *et al.*, 2009).”

Mariculture Impacts on the Potential Comeback of the Native Oyster

Another potentially harmful impact of oyster mariculture in Drakes Bay is that the presence of the farmed Pacific oyster, *Crassostrea gigas*, may repress the rehabilitation of the native Olympia oyster, *Ostrea lurida*. A study conducted by Trimble et al. showed that *C. gigas* acts as a “recruitment sink” for *O. lurida* because *O. lurida* preferentially attaches to *C. gigas*’ shells even under conditions unfavorable to its survival, so that those attached in unfavorable conditions die before reaching maturation (Trimble et al, 2009). In addition, *C. gigas* competes with *O. lurida* directly for food and space. (Trimble et al).

Considering the negative impact that *C. gigas* has on the growth of *O. lurida*, the possibility that *C. gigas* could grow independent of mariculture care and invade non-mariculture areas of the estero should be carefully examined. According to the NRC study, there is a risk that the non-native oysters cultured in Drakes Estero might establish “self-sustaining populations” (NRC at 5). One factor that indicates the seriousness of this potential problem is the action requested by the Coastal Conservancy concerning the eradication of *C. gigas* in San Francisco Bay, and their efforts to “restore native oysters” there. According to the Conservancy, which was willing to provide up to \$225,000 to the San Francisco Estuary Institute for non-native oyster eradication in San Francisco Bay, “[t]he establishment and spread of the exotic oyster *C. gigas* could threaten species that are critical to these restoration efforts and to achieving sub-tidal goals by potentially...competing with native oysters.” (Coastal Conservancy. 2008,). Clearly, invasive spread of *C. gigas* is viewed as a serious problem in San Francisco Bay, so research should be conducted to show whether or not there are enough similarities between San Francisco Bay and Drakes Estero to warrant a similar conclusion, focusing particularly on the presence of hard substrates and *C. gigas*’ ability to flourish without large areas of these hard substrates. Ocean floor composition, tidal strength, bathymetric layers, and other differences between San Francisco Bay and Drakes Estero that would indicate whether or not the environment of Drakes Estero would be conducive to the rapid spread of feral *C. gigas* should be researched thoroughly to allow for more concrete conclusions. However, in the absence of this data, it is reasonable to conclude that *C. gigas* does have some potential to become independent in Drakes Estero, and that this possibility should be considered a serious threat to the potential rehabilitation of *O. lurida* in the area.

Mariculture Impacts on Fish

Oyster mariculture's impact on fish is also a matter that should be considered carefully. While the only study examining fish populations and oyster mariculture in Drakes Estero (Wechsler, 2004) did not have statistically significant results, studies elsewhere have suggested that oyster mariculture increases the fish population size and lacks a significant effect on species distribution. For example, a study performed in Humboldt Bay, California, compared fish densities and Simpson's Diversity Index for populations of fish living in eelgrass, on open mudflats, and in the vicinity of oyster long-lines (Pinnix et al, 2005). The study concluded that more fish were harbored by oyster long-lines than by eelgrass, and that the oyster mariculture did not appear to have a negative impact on fish diversity. A second study, conducted in North Carolina, showed that densities of fish were as high over plastic bottom netting used to cover infaunal cultured clams as in eelgrass beds. (Powers et al). It concluded that “[u]tilization by juvenile fishes was 3 times greater in seagrass and 3 to 7 times greater in epibiota on mesh in clam leases than on sandflat habitat.” (Powers et. al). Based on this evidence, it seems unlikely that oyster mariculture in Drakes Estero will decrease fish densities; however, research should be conducted to show whether or not specific species of fish are negatively impacted by the increase in numbers of fish harbored by oyster culturing apparatus.

Mariculture Impacts on Water Quality

A final matter of concern is the interpretation of the impacts of the interaction between oysters and water quality. Oysters feed by filtering particulates from the water column; high oyster density, such as in an oyster mariculture area, can depress turbidity and decrease algal blooms. Essentially, oysters serve as buffers against influxes of suspended particulate matter and nutrients caused by run-off, etc. (De Angelis, 1986), thus enhancing and sustaining water clarity. Oyster mariculture has been shown to increase water clarity by aiding in the transfer of suspended particulate matter from the water column into sediments (Mazouni et al., 1996).

However, while high oyster populations have been shown to improve water clarity (generally assumed to coincide with water quality), the extent and actual impact of this alteration must be considered. According to a study performed on sediments in Drakes Estero, the risk of eutrophication is naturally very low due to the high rate of tidal flushing (Anima, 1990-1991), meaning that the oyster mariculture is likely not providing an essential ecosystem service, and their removal would be unlikely to result in decreased water quality. While this may not be enough evidence to entirely dismiss the oyster mariculture's potential to buffer against a sudden influx of suspended sedimentation during run-off of stormwaters as proposed by Jackson et al. (2001), it definitely calls the perceived necessity of the oyster cultures into question. More study must be done in Drakes Estero to establish whether the benefits traditionally associated with oyster mariculture have actual impacts there. In addition, more research would need to be performed in order to determine the consequences of such an impact: although improved water clarity sounds inherently good, any forced alteration to an ecosystem is bound to have unintended ramifications that may be difficult to diagnose or retract.

Mariculture Impacts on Harbor Seals

One subject area in which the National Park Service has collected more Estero-specific data is harbor seal population and distribution. However, seal monitoring and data collection also leave much to be desired. For example, pictures, which could have been very useful in determining how mariculture has affected seals, were not relied on in the DEIS because collection "was not based on documented protocols and procedures" (DEIS at 181). The NRC report points out that none of the seal research done in Drakes Estero in the last 30 years has been intended to show the relationship between oyster mariculture and seals (NRC at 41). It notes that the effects of disturbances on the seal behavior during the breeding season would only be evident with sustained, long-term monitoring (NRC at 49). The DEIS mentions the review of the effects of human activities on harbor seals in Drake's Estero by the Marine Mammal Commission and notes it will be taken into consideration when it is released (EIS at 181). The Commission recently released that review and we summarize it's conclusions at page 11 of our Comment.

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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

City:*



State/Province:*



Postal Code

First Name:

MICHAEL

Middle Initial:

A

Last Name:

SILAFANI

Address:



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.

POINT REYES NS
2011 NOV 21 PM 3:14
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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

* indicates required

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

Robin

Middle Initial:

M

Last Name:

Baccroce

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.

POINT REYES NATIONAL SEASHORE

2011 NOV 21 PM 3:14

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Dear Secretary Salazar,

I'm writing to urge you to please work to protect the ONLY marine estuary wilderness on the west Coast. I support alternative "A", which will uphold this area's wilderness protection status. These are untarnished, pristine lands that should not be intruded upon for petty, short-term benefits. Please protect what cannot protect itself. Drakes Estero is an asset to us all.

Sincerely,

Ethan Zalcui



A handwritten signature in black ink, appearing to be 'Ethan Zalcui'.

DEC 09 2011

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2011 DEC 13 PM 2:23

POINT REYES NS

DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:17

POINT REYES NS

Nov. 17. 2011

Attention: Secretary Salazar
Re: West Coast Only Marine
Wilderness

I am extremely concerned
for any and all Wilderness
Areas.

Please help us preserve
the West Coast Only

Marine Wilderness at
Drakes Estero (support all
Respectfully,
A

Storglance Melvin



DEC 09 2011

RECEIVED

2011 DEC 13 PM 2:22

POINT REYES NS

December 13, 2011

Dear Secretary Salazar,

Please refer to the letter of the
Environmental Legal Defense Fund of Santa Clara.

It is requested to uphold the address protection
disposition as promised. There is a request
for a name address entry in the west coast
and should be produced in perpetuity.

Thank you for your consideration of this request

Denise Jensen

Denise
Jensen

11-13-11

DEC 03 2011

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2011 DEC 12 PM 1:20

POINT REYES NS

Dear Secy Salazar,
 Choose Alternative A
 Please protect Point Reyes w/ Wilderness
 Status. @ Drakes Estero,
 Thaux,

Jonathan
 [Redacted]

PS

- 1) Oyster operation negatively impacts wild life habitat such as eel grass Habitat
- 2) We deserve one marine Wilderness on our west coast. Oyster companies can be on private land or somewhere else.

DEC 09 2011

RECEIVED

2011 DEC 13 AM 11:21

POINT REYES NS

11-12-11

Re:

Dear Secretary Salazar

Please protect our marine wilderness
on the West Coast, Point Reyes. I support
alternative A. We have so little left. Please
protect our coast
We shall hold you responsible for Drake
Estero.

Francis E. Valadez

FRANCIS E. VALADIEZ

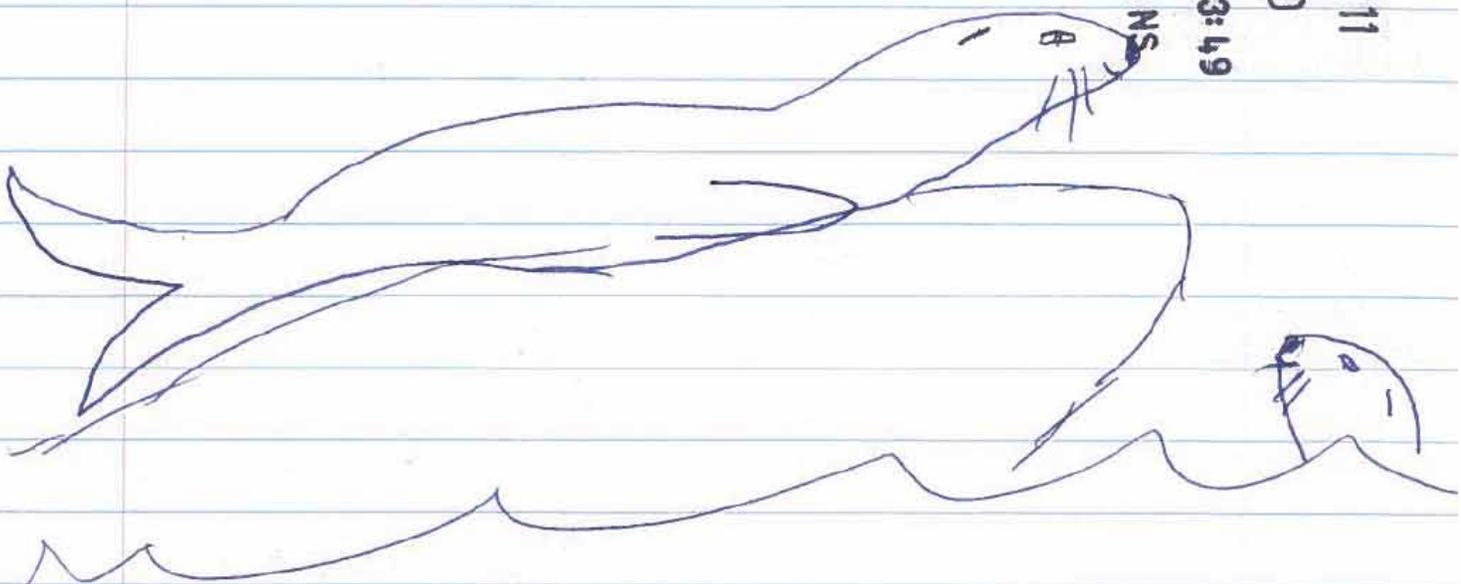


Secretary Salazar,

Please Protect our only marine wilderness on the west coast next year as long as intended. There is no replacement for marine wilderness estuary. Plus Drakes Estero is home to one of the largest harbor seal colonies. I support alternative "A".

From Jacqueline Rabor, 12 years old,

DEC 09 2011
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POINT REYES NS



DEC 09 2011

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Secretary Salazar,

POINT REYES NS

I urge people to protect our marine wilderness on the west coast next year. I support alternative "A", an environmentally preferred alternative. Drakes Estero has been supporting alternative "A" and have been for many years. There was a promise to make this beautiful marine wilderness that it would be come ~~be~~ protected 30 years ago! so, I SUPPORT ALTERNATIVE "A"!

From,

Jade "12 years"



secretary salazar

DEC 09 2011

I urge you to keep

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2011 DEC 12 PM 3:50

Drakes ~~estero~~ estero. I support Alternative

POINT REYES NS

"A," the environmentally ~~preferred~~ preferred alternative

Thousands of DBOC PVC spacer tubes have been found all over Point Reyes beaches by west marin beach volun-

teers.



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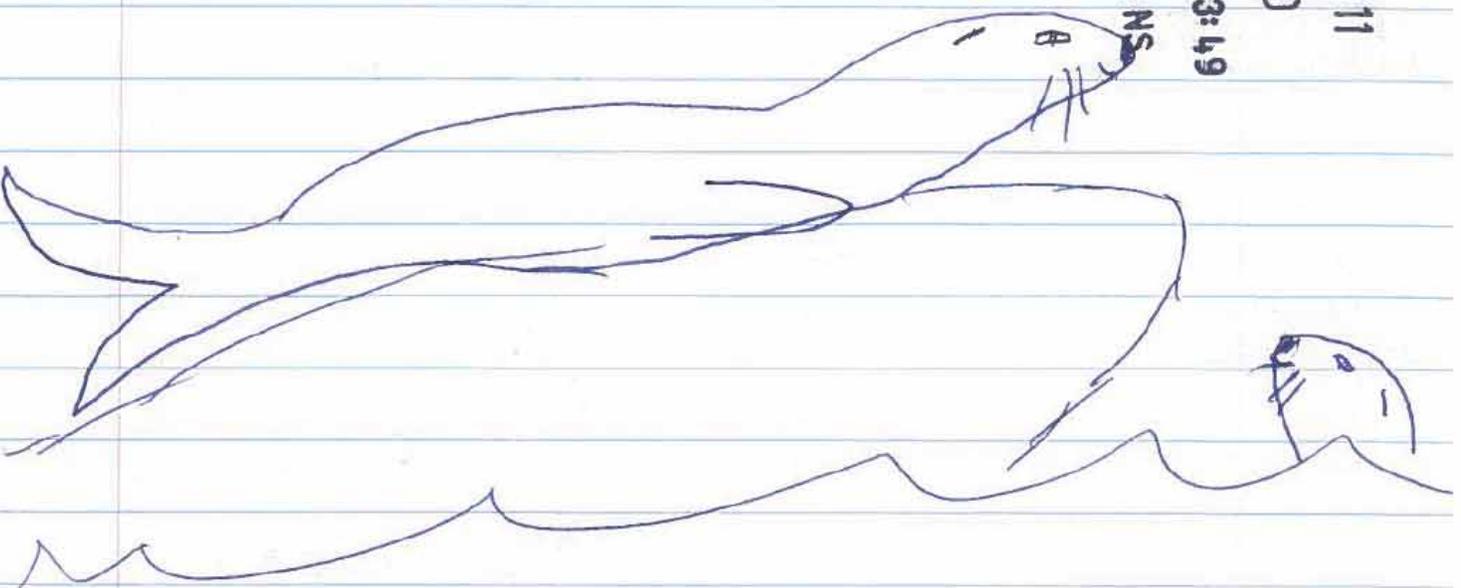


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From Jacqueline Rabor, 12 years old,



POINT REYES NS

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DEC 09 2011

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Secretary Salazar,

POINT REYES NS

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From,

Jade "12 years"



secretary salazar

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I urge you to keep

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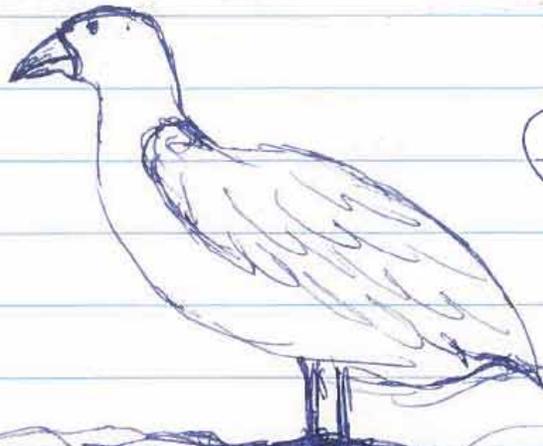
Drakes ~~estero~~ estero. I support Alternative

POINT REYES NS

"A," the environmentally ~~preferred~~ preferred alternative

Thousands of DBOC PVC spacer tubes
have been found all over Point Reyes
beaches by west marin beach volun-

teers.



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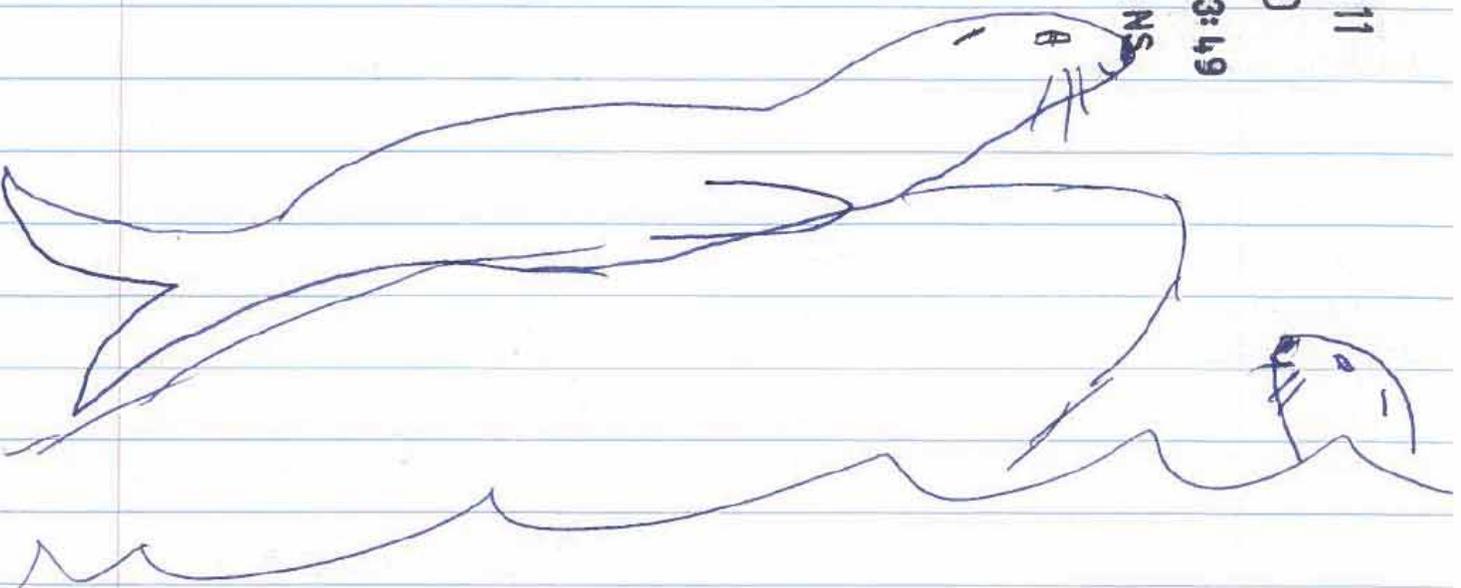


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From Jacqueline Rabor, 12 years old,



DEC 09 2011

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POINT REYES NS

DEC 09 2011

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Secretary Salazar,

POINT REYES NS

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From,

Jade "12 years"



secretary salazar

DEC 09 2011

I urge you to keep

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Drakes ~~estero~~ estero. I support Alternative

POINT REYES NS

"A," the environmentally ~~preferred~~ preferred alternative

Thousands of DBOC PVC spacer tubes have been found all over Point Reyes beaches by west marin beach volun-

teers.



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Barbar

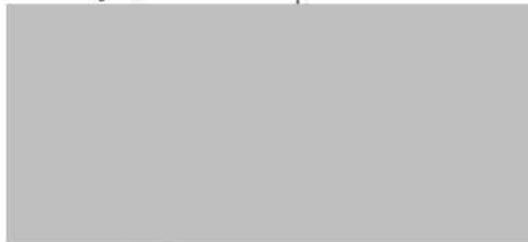
Secretary Salazar,

I support Alternative A for Drake's Estero in point ~~raises~~
It is a bad precedent to remove wilderness that has been
promised for over 30 years. Endangered species depend on
this habitat and need maximum protection. Industrial

Oyster company is damaging the eel grass in habitat and
bringing in tunicates which are an invasive species.

This new oyster company should not ^{to} change the rules and
overtum the laws protecting this place. They knew what
they were getting into.

- Ariel Vinquez



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POINT REYES NS



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND GAME
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
www.dfg.ca.gov

EDMUND G. BROWN, Jr. Governor
CHARLTON H. BONHAM, Director



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2011 DEC 22 PM 12: 12

POINT REYES NS

December 20, 2011

Cicely A. Muldoon, Superintendent
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956

Subject: Comments on the draft Environmental Impact Statement for Drakes Bay Oyster Company

Dear Ms. Muldoon:

The Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for Drakes Bay Oyster Company (DBOC) Special Use Permit (SUP). The Department is serving as a cooperating agency on the project to provide the National Park Service (NPS) with technical assistance and available data specific to the DBOC's operation. The Department has special expertise in management and oversight of aquaculture in California. We offer the following comments and recommendations on this project in our role as a cooperating agency and as a trustee agency over the State's fish and wildlife resources.

Thank you for your consideration of this letter. The Department stands ready to work with all stakeholders in providing the requisite biological and program expertise on any proposed action involving the oyster farm to help move this situation to a final resolution.

As you know, the Fish and Game Commission (Commission) and Department have issued and administered the state water bottom leases in Drakes Estero since their creation in 1934. At this time, we have two general comments on the DEIS, which the NPS might find useful as it determines whether to continue this special use. Our specific comments in the attached appendix tier from the general comments in this letter.

First, we encourage NPS to acknowledge the potential benefits of shellfish aquaculture to the estuarine environment in Drakes Estero. For example, based on data analyzed by NPS staff, eelgrass coverage has approximately doubled in Drakes Estero from 1991 to 2007, suggesting aquaculture operations might not negatively impact estuary ecology or the eelgrass population. Second, given the intense scrutiny of and passionate debate about the oyster farm and NPS proposed actions, we urge careful attention to data and analysis of such data with regards to conclusions that aquaculture has or has not caused long-term impact to Pacific harbor seal colonies in Point Reyes National Seashore or eelgrass.

Cicely Muldoon, Superintendent

Page 2 of 2

December 20, 2011

The Department is committed to working with you to ensure the DEIS contains the best-available data and resources to evaluate the potentially adverse and beneficial impacts of mariculture operations within Drakes Estero. To that end, we have included with this letter prior correspondence from the Department in 2007 and 2008 regarding our position about the ongoing issues between DBOC and the NPS. These letters clarify our view of management authority.

Thank you for the opportunity to provide comment on the Draft Environmental Impact Statement (EIS) for Drakes Bay Oyster Company (DBOC) Special Use Permit. Please see the enclosed table that provides more technical comments provided by Department staff. If you require additional information, please contact Ms. Kirsten Ramey, Marine Region Aquaculture Coordinator at (707) 445-5365 or via e-mail at kramey@dfg.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CHB', followed by a long horizontal line extending to the right.

Charlton H. Bonham
Director

Enclosures (3)

cc: Marija Vojkovich, Department of Fish and Game, Santa Barbara, CA
Joe Milton, Department of Fish and Game, Sacramento, CA
Kirsten L. Ramey, Department of Fish and Game, Eureka, CA

PUBLIC DRAFT

Point Reyes National Seashore Drakes Bay Oyster Company Special Use Permit EIS

Draft Environmental Impact Statement

Reviewer Office: Department of Fish and Game

Comments due: December 9, 2011

Reviewer	Page	Line	Comment/Proposed Revision
DFG	XXIII	Bullet 7	Include "At the expiration..." to clarify when the removal activities would be required
DFG	XXV	Bullet 1	Include "...unpermitted infrastructure, would remain until November 30, 2022" to clarify how long structures would remain.
DFG	7	Paragraph 2	The CDFG manages 16 shellfish leases held by 8 such operators
DFG	7	Paragraph 3, 1st sentence	Does this number include DBOC? If not, there are 9 operations (11 including DBOC). The 19 operations are not all on granted or private tidelands. The rest are private land-based facilities.
DFG	20	Paragraph 3	The original letter from Studdert to the FGC dated 8/6/93 requested manila clams be added to lease M-438-01. This indicates there was no intent to limit clams to M-438-02 and that an error was made by the FGC when drafting the correspondence letter to the Lessee and that error was simply transferred forward to all the subsequent documents.
DFG	81	Paragraph 1, Last sentence	Can you include a mention of who the permitting agencies would be for this type of discharge to inform the reader?
DFG	84	Paragraph 5	Incorrect lease number
DFG	120	Preferred Alternative	It is unclear why NPS did not identify a preferred alternative in the Draft EIS. How will NPS determine whether input received from the public is objective? Why is NPS relying on public comment to select a preferred alternative?
DFG	127	Figure 2-14	Alternative B does not include the boat transit path as does Alternative C & D.
DFG	172	Last paragraph	It is important to note that the 2007 estimate of eelgrass coverage has approximately doubled since 1991 based on Brown and Becker 2007.
DFG	197	Last paragraph	Should 2010 read 2011 Management Plan...?
DFG	219	Paragraph 1	Some facilities are land-based and not on tide or submerged lands.
DFG	219	Paragraph 2	Change mariculture to shellfish because we have 1 kelp lease that is not part of the 18 count.
DFG	219	Paragraph 3	There are 19 operations on grant or private tide and submerged lands or are private land-based facilities. 9 operations are on granted or private tidelands and 10 are land-based facilities.
DFG	219	Last paragraph	The Humboldt Bay Harbor, Recreation and Conservation Act was passed in 1970. The formation of the District was in 1973.
DFG	220	Paragraph 1, Last sentence	DFG coordinates with the shellfish hatcheries on disease and health certifications. The CA Department of Public Health is the lead on certifying growing areas for shellfish.
DFG	220	Paragraph 1, Last sentence	Remove the words "... through an agreement with NPS,..." and change to "... but it would continue to exercise oversight related to stocking..." The Department has this authority through law, not through an agreement with NPS; however, an agreement could be drafted to memorialize DFG's authority within PRNS.
DFG	220	Paragraph 1	This paragraph specifically discusses shellfish operations in Humboldt Bay, but there are other important shellfish growing areas in CA, which is the title of the section. In addition, the paragraph concludes with the discussion of the DBOC lease and NPS landowner jurisdiction which doesn't feel appropriate for this section.

DFG	220	Paragraph 1	FGC and DFG have not issued and administered, respectively leases to-DBOC despite the fact the lands are owned by the U.S. The RUO contemplated that the leases could be renewed. The language of the RUO states "Upon expiration of the reserved term a special use permit may be issued for the continued occupancy of the property...provided, however, that such permit will run concurrently with and will terminate upon the expiration of State water bottom allotments assigned to the Vendor." Thus the state water bottom leases were renewed in 1979 and again in 2004 given that the RUO is valid until 2012.
DFG	222	Paragraph 1	In Humboldt Bay, the largest producer provides production information by gallons and DFG has inquired as to the method that the Humboldt Bay producers use, but has not received the conversion factors yet.
DFG	222	Last paragraph	In Humboldt Bay, all information reported to DFG has been in gallons.
DFG	223	Paragraph 1	It is true that DFG data has not been calculated consistently and is not inclusive of all statewide production; however, DFG's data is complete for all of Marin county which should be included in the socioeconomic analysis. Statewide shellfish production is appropriate to evaluate the success of the industry, but inappropriate when you are evaluating the effects of the loss of a local product on a local economy. DFG records between 2007-2009 show DBOC contributed 68% of total oysters and 63% within Marin County. NPS has all the data necessary to include the local economic analysis for shellfish production and if not, it can easily be provided.
DFG	223	Paragraph 2	The production rates for Drakes Estero are similar to production rates in Tomales Bay. Please make note that Tomales Bay production is a combined total of 10 leases held by 6 companies.
DFG	223	Paragraph 3	Humboldt Bay data reported to DFG has been in gallons
DFG	224	Table 3-7	It is unclear where the 32,500,000 number comes from in the Kuiper report. The report estimates 35.5 million with 250,000 imported oysters so that comes to 35,250,000. The number for total shellfish would need to be adjusted as well.
DFG	224	Table 3-7	The same issue with not using the same conversion rate is present in the Kuiper numbers. He assumed a 180 oysters per gallon average where that may not be the actual conversion rate for some producers. His report contains numbers from the same growers that DFG received production from, but his data has used a conversion rate of 180 which may overestimate actual production. Kuiper says 1 gallon of oysters has 180 in it, but in reality the company only produces 140 oysters in a gallon the numbers have been inflated in the Kuiper report. This needs to be identified and explained.
DFG	260	Eelgrass Section	It should be noted that the SUP 2008 placed a new restriction on boat use by DBOC that directed boat passage away from the "lateral channel" throughout the year, not just during the harbor seal pupping season. This redirected the oyster boats to a route over shallower eelgrass beds which has resulted in increased damage to eelgrass beds from propeller scars.
DFG	262	Paragraph 4	Brown and Becker 2007 concluded that the areal coverage of eelgrass in Drakes Estero has approximately doubled between 1991 and 2007.
DFG	263	Paragraph 1	There is no historic data on eelgrass so how can the document state "Recover of eelgrass..."? This implies that eelgrass was once present in that location when that is not known.
	263	Paragraph 3	Eelgrass would be expected to colonize NOT recolonize given the fact that there is no historic data on eelgrass coverage before mariculture operations were established.
	263	Paragraph 3	The document says recovery of eelgrass would provide additional habitat for fish communities where in Humboldt Bay, oyster structures were found to harbor more fish than either eelgrass or open mudflats (Pinnix et al., 2004).
	265	Paragraph 4	What methodology was used to determine eelgrass versus algae in the aerial photography?

DFG	266	Paragraph 1	Waddell 1964 studied the impacts of dredging culture methods on eelgrass recovery which is not applicable to Drakes Estero given that method is not used. In addition, Zieman 1976 studied turtle grass, a different species, in his evaluation of recovery rates based on disturbance from motor boats. This statement is misrepresenting the situation in Drakes Estero. The NAS report states "Based on existing data on growth and recovery of <i>Zostera marina</i> in Willapa Bay and elsewhere on the West coast, recovery from propeller scars should be rapid (weeks) for this species, unless the rhizomes were removed from the sediment (still less than 2 years based on above studies) or there was repeated scarring on a regularly travelled route.
DFG	266	Paragraph 1	Koch 2002 concluded that the negative impact of boat-generated waves on seagrass habitat quality was minimal. The strongest impact was at low tide when boat-generated waves resuspended a small fraction of total suspended solids, which redeposited in a few minutes resulting in little or no impact on the light availability. In fact, the boat-generated waves apparently caused epiphytes and particulate matter to be dislodged from the leaves creating a positive effect for the seagrasses. This study is incorrectly cited in the document.
DFG	266	Paragraph 2	The research conducted by Wechsler 2004 and Harbin-Ireland 2004 (as cited in NAS 2009) in Drakes Estero was not focused on eelgrass and no empirical data was collected to support the statement in the document that states "...shown to reduce coverage and density of eelgrass due to shading or preemption of space." There have been no studies in Drakes Estero that supports this statement. The studies that NAS uses were in Willapa Bay and involved long-line and stake culture.
DFG	266	Paragraph 2	Bag culture is present in intertidal areas and so avoids the eelgrass beds which grow from rhizomes in the subtidal sediments.
DFG	266	Paragraph 2	Tallis, et al. 2009 explored 3 cultured methods, dredged on-bottom, hand picked on-bottom and long line off-bottom. The only method in Drakes Estero that can be compared to this study is the long line method. Depending on long-line spacing, eelgrass in long line areas may occur at densities indistinguishable from nearby uncultivated areas. None of the studies cited in this paragraph evaluated bag culture.
DFG	266	Paragraph 3	Is there a reference to support the last two statements in this paragraph?
DFG	275	Paragraph 1	Hosack et al. 2006 found infaunal macrofauna in eelgrass, open mudflat, and oyster culture in Willapa Bay were not significantly different from each other. Ferraro and Cole 2007 found that oysters and eelgrass supported equally diverse assemblages of benthic species in Willapa Bay. In Humboldt Bay, diversity and abundance of infaunal invertebrates around long line culture were similar to those observed at eelgrass reference sites (Rumrill and Poulton 2004).
DFG	279	Top of page	The only known hosts for <i>Haplosporidium nelsoni</i> (MSX disease) are <i>C. gigas</i> and <i>C. virginica</i> and do not present a risk to native mollusks.
DFG	279	Paragraph 3	Actually Herborg, et al. 2009 did not evaluate vectors for primary introduction of <i>D. vexillum</i> so has been mis-interpreted here.
DFG	295	Impact Analysis	Motorboat activities (assumed as a proxy for DBOC activities) make up 4% of the total disturbances in Drakes Estero over the 7 years of surveys during the breeding season. Other anthropogenic sources account for a total of 58.3% of all noted disturbances (data derived from Sarah Allen's presentation at the MMC Meeting on February 21, 2010). NPS states that the seashore receives more than 2 million visitors annually. The data suggests that the visitors to the park have a much greater influence on overall disturbances than the presence of motorboats within the estuary. Why is this not discussed under the cumulative impact analysis? It seems more appropriate that this is a long-term moderate or major adverse impact on harbor seals.

DFG	296	Paragraph 5	According to the Pacific Harbor Seal Monitoring at PRNS 2009 and 2010 Annual Reports and past reports, the high number of disturbances observed in Drakes Estero were caused by hikers on Limantour Beach. Shouldn't this be addressed in the cumulative impacts for the No-Action Alternative?
DFG	298	Paragraph 4	Calambokidis, et al. 1991 showed that kayakers cause harrassment of harbor seals at a greater distance than do powerboats.
DFG	298	Paragraph 4	What research supports the assertion that sounds produced by DBOC would cause impacts to harbor seals?
DFG	389	Paragraph 3	This section should also compare shellfish production at DBOC at the regional level (within Marin County) which DFG and NPS has complete records for.
DFG	392	Last paragraph	DFG records between 2007-2009 show DBOC contributed 68% of total oysters and 63% of total shellfish within Marin County. Thus contributing far more to the local economy than presented in the DEIS.
DFG	394	Last paragraph	Where is the data that supports the claim that 70% of the oysters consumed in CA come from Humboldt? The reference used here is an advertisement and has not been fact checked for accuracy.
DFG	394	Last paragraph	The planning and permitting effort in Humboldt Bay will most likely not double the amount of area available to shellfish production.

Disturbances observed in Drakes Estero



**DEPARTMENT OF FISH AND GAME
OFFICE OF THE GENERAL COUNSEL**

1416 Ninth Street
Sacramento, CA 95814
<http://www.dfg.ca.gov>
(916) 654-3821



March 25, 2008

The Honorable Jared Huffman
Assemblymember, Sixth District
Post Office Box 942849
State Capitol Building
Sacramento, California 94249-0006

Re: Drakes Bay Oyster Farm

Dear Assemblymember Huffman:

The purpose of this letter is to explain the position of the Department of Fish and Game (Department) regarding the ongoing issues between the Drakes Bay Oyster Farm and the Point Reyes National Seashore (PRNS). The Department Office of the General Counsel has provided the following discussion.

By way of review, in 1965 the Legislature granted to the United States certain tide and submerged lands in Drakes Estero for the PRNS. This grant contains a reservation of "the public right to fish" on the granted lands, consistent with article 1, section 25 of the California Constitution, and includes the area used by the oyster farm under two state water bottom leases. In November 1972, the prior owner of the oyster farm conveyed his property to the United States, subject to a reservation of occupancy and use in the grant deed.¹ By its terms, the reservation expected the state water bottom leases to continue until the 30-year term expired in 2012, after which the oyster farm would operate under a special use permit from PRNS that would run concurrently for remainder of the leases. Since the leases were subject to a maximum term of 25 years, the agreement anticipated that the leases could and would be renewed, and this in fact was done by the Fish and Game Commission (Commission) in 1979. The leases were renewed again in 2004, but made contingent upon compliance with the 1972 reservation and, after its expiration, with any PRNS special use permit. In 1976, the Point Reyes Wilderness Act designated over 25,000 acres as wilderness, and another 8003 acres as "potential wilderness." The oyster farm lies within this latter area.

In 2006, the PRNS questioned how "the public right to fish" reservation in the 1965 tidelands grant affected the status of the state water bottom leases.² In

¹The State of California was not a party to this transaction; it is unknown whether it was legally reviewed by the United States Department of the Interior, Office of the Solicitor.

²Much has been made of correspondence in 1965 and 1966 by then-Department Director W.T. Shannon, stating that the oyster farm is covered by "the right to fish" reservation. The two

May 2007, the Department concluded that since fishing was distinct from aquaculture, it was not subject to this tidelands grant reservation. Since both the 1972 grant reservation and the 2004 state water bottom lease renewal require compliance with all rules and regulations of the National Park Service, the Department concluded that "primary management authority" for the oyster farm lies with the PRNS. However, given the context of the original question, this conclusion properly refers only to primary management authority *over the state water bottoms that are the subject of the leases* and not to any other aspect of the aquaculture operation. The 1965 legislative grant did not create an area of exclusive federal jurisdiction, and the oyster farm continues to be subject to ongoing Department management, oversight, and enforcement.³

Three considerations are evident here. First, the Fish and Game Code expressly designates aquaculture as a form of agriculture⁴ and distinguishes it from commercial fishing.⁵ Such a distinction is apparent in statutes pre-dating the 1965 grant.⁶ Further, aquaculture involves the culture and harvesting of animals that are private property while fishing involves the permitted take of fish that are part of the public trust.⁷ A corollary to this second consideration is that "the right

letters are brief, general, and conclusory. However, while the link between the reservation and ongoing state authority is legally incorrect, the letters correctly assert concurrent jurisdiction over the oyster farm. This is consistent with the Department's May 2007 conclusion that the PRNS has "primary management authority" over the state water bottoms that are the subject of the leases, as well as the conclusions in this letter. See also footnote 3, below.

³This includes the payment of taxes and fees, facility registration, regulation of aquaculture products, facility inspections, stocking of aquatic organisms, brook stock acquisition, disease control, and importation of aquatic plants and animals.

⁴Fish and Game Code § 17. This 1982 provision codifies the long-standing concepts of common law (*Hagenburger v. City of Los Angeles* (1942) 51 Cal.App.2d 161 [a *farm* is a tract of land devoted to agricultural purposes]); ordinary dictionary meaning (*to farm* is "to grow or cultivate in quantity <shellfish>" (Webster's New Collegiate Dictionary 450 (9th ed. 1991)); a *farm* is "a tract of water reserved for the artificial cultivation of some aquatic food; as an *oyster farm*" [emphasis added] (Webster's Third New International Dictionary 824 (1961)); and usage of trade (California Aquaculture Association at: <http://www.californiaaquacultureassociation.org> [mission statement objective is to "assure the recognition of aquaculture as agriculture"]).

⁵Fish and Game Code § 15000(a). The commercial tax on oysters is also separate from the commercial fishing tax on mollusks. See Fish and Game Code §§ 8051, 15406.7.

⁶See e.g. Fish and Game Code of 1933 §§ 815, 820 [distinguishing cultivation of oyster beds from fishing].

⁷Fish and Game Code § 15001. See also Fish and Game Code §§ 45 [defining *fish*], 86 [defining *take*]; see also § 15 [defining *angling*]. These provisions derive from Fish and Game Code of 1933, § 2. This analysis is consistent with that in *Pazolt v. Director of Division of Marine Fisheries* (1994) 631 N.E.2d 547, 572-573 where the court stated that aquaculture is "a contemporary method of farming shellfish" and "is not fishing, nor can it legitimately be considered a 'natural derivative' of the public's right to fish."

to fish" over tidelands is a *public right* and cannot be exclusive.⁸ By contrast, a state water bottom lease confers on a person the *private right* to exclusively cultivate and harvest aquatic organisms in the leased area.⁹ While the Fish and Game Code guarantees the right of public access over the leased areas for reasonable public trust uses, including fishing,¹⁰ we do not believe aquaculturists would agree that "the right to fish" authorizes the public to take their cultivated products.¹¹ Finally, while "the right to fish" secures public access to state lands that are compatible with fishing, *it does not authorize fishing* on those lands¹² and confers on the public no right they did not already have.¹³ The provision is properly read in connection with (now) article 4, section 20 of the California Constitution, which allows the Legislature to delegate to the Commission such powers relating to the protection and propagation of fish and game as it sees fit.¹⁴ It is this provision, not "the public right to fish," which authorizes the leasing of state water bottoms for aquaculture. The irrelevancy of "the public right to fish" to the future of the oyster farm is underscored by two additional factual considerations. First, the existing state water bottom leases are contingent upon the 30-year reservation of use and occupancy which, after it expires, requires a special use permit. If the oyster farm does not receive a special use permit to operate beyond 2012, a material condition of the lease renewals will not have been met. *This situation would be the same even if the underlying tidelands had never been granted to the United States.* Second, it cannot be contested that the 1965 legislative grant and "the public right to fish" only applies to the tidelands, not the adjacent terrestrial areas upon which the oyster farm is physically dependent, and which are part of the potential wilderness designation.

In July 2007, the Department attended a meeting with United States Senator Diane Feinstein and representatives of the oyster farm, the NPS, and the Coastal Commission. The NPS agreed to work with the oyster farm for a special use permit to continue operations through 2012, and all participants recognized that the future of the oyster farm after 2012 depends on the outcome of the wilderness area designation. The Department stands ready to work with all stakeholders in providing the requisite biological and program expertise on any proposed action

⁸Pacific Steam Whaling Co. v. Alaska Packers' Association (1903) 138 Cal. 632, 636.

⁹Fish and Game Code §15402; see also Fish and Game Code of 1933 § 815.

¹⁰Fish and Game Code §15411.

¹¹In fact, the taking of such organisms without lawful entitlement constitutes theft. See Fish and Game Code § 15002; see also Fish and Game Code of 1933 § 821 [requiring consent or permission of owner/occupier of the land].

¹²In re Quinn (1973) 35 Cal.App.3d 473; State v. San Luis Obispo Sportsman's Association (1978) 22 Cal.3d 440.

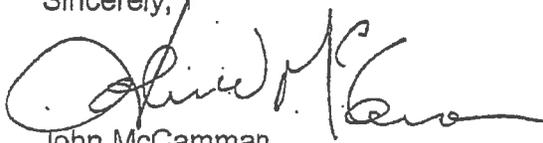
¹³Paladini v. Superior Court (1918) 178 Cal. 369, 372; California Gillnetters Association v. Department of Fish and Game (1995) 39 Cal.App.4th 1145, 1154.

¹⁴Ex parte Parra (1914) 24 Cal.App. 339.

Assemblymember Huffman
March 25, 2008
Page 4

involving the oyster farm to help move this situation to a final resolution. However, for the reasons discussed above, the reservation of "the right to fish" in the 1965 tidelands grant is clearly inapplicable to this situation. We hope this responds to your concerns. Should you or any of your staff require any additional assistance, please contact Senior Staff Counsel Joseph Milton, Office of the General Counsel, at (916) 654-5336 [jkmilton@dfg.ca.gov].

Sincerely,

A handwritten signature in black ink, appearing to read "John McCamman". The signature is fluid and cursive, with a long horizontal stroke at the end.

John McCamman
Acting Director



DEPARTMENT OF FISH AND GAME
OFFICE OF THE GENERAL COUNSEL
1416 Ninth Street
Sacramento, CA 95814
<http://www.dfg.ca.gov>
(916) 654-3821



May 15, 2007

Mr. Don Neubacher, Superintendent
Point Reyes National Seashore
Point Reyes Station, California 94956

Re: Drake's Bay Oyster Company

Dear Superintendent Neubacher:

The purpose of this letter is to memorialize the position of the Department of Fish and Game (Department) regarding the lease status of the above-referenced mariculture operation at Drakes Estero, within the Point Reyes National Seashore (PRNS). For the reasons discussed below, we conclude that the mariculture operation in question is properly within the primary management authority of the PRNS, not the Department.

By way of review, the leasing of state water bottoms at Drakes Estero dates to at least 1934. In 1965, the California Legislature granted to the United States, subject to certain limitations, "all of the right, title, and interest...to all of the tide and submerged lands or other lands beneath navigable waters" situated within the boundaries of the PRNS (Chapter 983, Statutes of 1965). The tidelands and submerged lands encompassed by this legislative grant include the leased state water bottoms. Consistent with article 1, section 25 of the California Constitution, this conveyance carried a reservation of the right to fish in the waters overlying these lands. Although the right to fish extends to both commercial and sport fishing, it does not extend to aquaculture operations. Regardless of whether its purpose is commercial or recreational, *fishing* involves the take of public trust resources and is therefore distinct from aquaculture, which is an agricultural activity involving the cultivation and harvest of private property (Fish and Game Code §§ 17, 15001, 15002, 15402). In November 1972, the Johnson Oyster Company (Johnson) conveyed its property to the United States, subject to a reservation of occupancy and use in the grant deed, which provided:

"Upon expiration of the reserved term, a special use permit may be issued for the continued occupancy of the property...provided, however, that such permit will run concurrently with and will terminate upon the expiration of State water bottom allotments assigned to the Vendor. Any permit for continued use will be issued in accordance with National Park Services regulations in effect at the time the reservation expires."

The reservation specifies a 40-year term and additionally requires, among other things, that Johnson comply with all applicable health and safety laws, and all rules and regulations of the National Park Service. This reservation expires in November 2012.

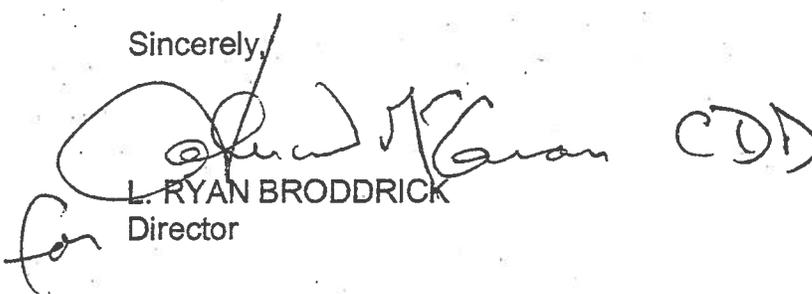
DRAKES ESTERO MARICULTURE

After that time, aquaculture operations must continue subject to a special use permit that would run concurrently with, and would terminate upon, the expiration of the assigned State water bottom allotments. Since such allotments are subject to a maximum lease term of 25 years, both the grantor and grantee apparently contemplated that the state water bottom leases then in effect could be renewed, and this was in fact done in 1979. In June 2004, the Fish and Game Commission (Commission) renewed the state water bottom lease for an additional twenty-five years, contingent on this reservation, and also required Johnson to comply "with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law..." In March 2005, the Commission authorized the assignment of the state water bottom lease to Johnson's successor, Drakes Bay Oyster Company.

The 2004 lease renewal is expressly contingent upon the aquaculture facility's compliance with the 1972 grant reservation and, after its expiration, with any special use permit that PRNS may issue in its discretion. The reservation requires compliance with all applicable health and safety laws and, specifically, with all rules and regulations of the National Park Service. Conversely, the renewal imposes an additional requirement of compliance with all other applicable laws, which reasonably includes those of the National Park Service and of PRNS in particular. For these reasons, we believe the mariculture operation in Drakes Estero is properly within the primary management authority of the PRNS, not the Department.

Should you or any of your staff require any additional assistance, please contact Senior Staff Counsel Joseph Milton, Office of the General Counsel, at (916) 654-5336 or jmilton@dfg.ca.gov.

Sincerely,


L. RYAN BRODDRICK
Director

cc: Mr. Ralph Mihan, Office of the Solicitor
U.S. Department of the Interior

Mr. Joseph Milton, Senior Staff Counsel
Department of Fish and Game

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POINT REYES NS

TO MR. SALAZAR

1. PROTECT DRAKES ESTERO

2012. AS WILDERNESS

AS PROMISED - SUPPORT

ALT. 'A' WE DESERVE

A WILDERNESS AREA ON THE

WEST COAST - FOR THIS

ESTUARY

M. WALKER



Secretary Salazar,

I am writing to urge you to support Alternative "A" for the Drakes Estero. This is the only wilderness estuary on the West Coast and it deserves to be protected.

Sincerely,

M. Wamole

Marianne Wamole

DEC 09 2011
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POINT REYES NS

P.S. I'm very concerned about the invasive species that the oyster operation would bring in.

DEC 09 2011

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POINT REYES NS

Secretary Salazar,

Drakes Estero needs wilderness protection in 2012.
It is a beautiful part of the state and deserves
alternative 'A' to treat it with environmental
sensitivity. Not doing this will set a very
bad precedent for similar areas around the
state.

Sincerely,
Charles Westcott



P.S.

Oysters can be grown virtually anywhere, but
marine estuary can never be replaced.

Nov. 9 2011

Dear Secretary Salazar,

It is IMPERATIVE that we protect to the utmost of our ability our remaining wilderness areas. Preserve land that is not yet developed. Urban sprawl is not sustainable. Practices and decisions which do not have sustainability as a core ~~value~~ value are irresponsible and ignorant. Please ~~not~~ consider my voice and the voice of our children who will benefit more from the preservation of this space than from another place for economic transactions to take place. Alternative A is the most environmentally friendly choice. Please keep the promise of preserving this wilderness area at Drakes Estero! in 2012

Thank You,

Lauren Westerschulte

DEC 09 2011

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POINT REYES NS

DEC 09 2011

RECEIVED

2011 DEC 12 PM 1:21

POINT REYES NS

Dear Secretary Salazar,

Please help protect Drakes Estero wildlife refuge. Preserved wilderness is essential to safety for wildlife & future generations.

Thank you for your consideration.
Support alternative (A)

Sincerely,

Moriah Whoolilurie



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

City:*

State/Province:*

Postal Code:*

First Name:

MAURICE FANASSIE

Middle Initial:

E.

Last Name:

FANASSIE

Address:

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.

POINT REYES NS

2011 NOV 21 PM 3:16

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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: Robert T Middle Initial: G
Last Name: Newmiller

Address: [redacted]
Country: [redacted]
Email: [redacted]

(Check here)
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] State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Zain Middle Initial: H

Last Name: Neumann

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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2011 NOV 18 AM 11:51
SINCE 11 NOV 2011

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: Justin Middle Initial: P

Last Name: Catalans

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:* _____

State/Province:* _____

Postal Code:* _____

First Name: Mary Ann Seeno

Middle Initial: _____

Last Name: Seeno

Address: _____

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.

POINT REYES NS

2011 NOV 21 PM 3:16

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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: JAMES L. TAMAR

Middle Initial: JL

Last Name: CROWE / LANE

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.

James Crowe
Owner Lane

2011 Nov 21 3:15 PM
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 POINT REYES NSD

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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

City:*

State/Province:*

Postal Code:*

First Name: Michele

Middle Initial: M

Last Name: PANASSIE

Address:

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

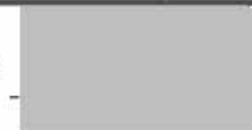
Document: Draft Environmental Impact Statement Drakes Bay Oyster Company Special Use Permit

* indicates required fields

City:*



State/Province:*



Postal Code:



First Name:

WILLIAM

Middle Initial:

D

Last Name:

MILLER

Address:



Country:

Email:



POINT REYES NS
2011 NOV 21 PM 3:14
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(Check here if you want your contact information kept private.)

Comments or Requests:

YES, SUPPORT A RENEWABLE SPECIAL USE PERMIT FOR DRAKES BAY OYSTER COMP!

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

YES, YES

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:*

State/Province:*

Postal Code:*

First Name:

ELEANOR

Middle Initial:

A

Last Name:

O'CONNOR

Address:

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 field

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: William

Middle Initial: S

Last Name: Wickliffe

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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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: RICHARD

Middle Initial: M

Last Name: EGAN

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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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: Robert

Middle Initial: J.

Last Name: Fortney

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

* indicates required fields

City:* _____

State/Province:* _____

Postal Code:* _____

First Name: Hugo _____

Middle Initial: L _____

Last Name: Phillips _____

Address: _____

Country: _____

Email: _____

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

Comments or Requests: I've bought Oysters there for 50 years and want to continue to do so in the foreseeable future.

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: JOHN Middle Initial: W.

Last Name: PHILLIPS

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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!!!

* indicates required fields

City:*

[Redacted]

State/Province:*

[Redacted]

Postal Code:*

First Name:

Michael

Middle Initial:

A

Last Name:

Brady

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

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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: Annabelle

Middle Initial: G.

Last Name: Puentes

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. *

POINT REYES NS
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* indicates required

City:*

Postal Code:*

First Name:

Last Name:

Address:

Country:

Email:

State/Province:

Middle Initial:

*Jack
Love*

JL

(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

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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: SUE

Middle Initial: L

Last Name: WRIGHT

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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Sue Wright

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Comment Form

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* indicates required fields

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

Postal Code:* [redacted]

First Name: Paul Middle Initial: D

Last Name: Shaft

Address: _____

Country: _____

Email: _____

(Check here if you want your contact information

Comments or Requests:

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

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Paul & Betty Shaft
[redacted]

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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Douglas

Middle Initial: E.

Last Name: Cross

Address: [Redacted]

Country: [Redacted]

Email: _____

POINT REYES NS
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2011 NOV 21 PM 3:14

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

Comments or Requests: Drakes Bay Oyster Co. is a National Treasure
It would be a tragedy to lose it.

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

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

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* indicates required

City:*



State/Province:*



Postal Code:*

First Name:

LARRY

Middle Initial:

D

Last Name:

FARNHAM

Address:



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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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Donna

Middle Initial: K

Last Name: Farnham

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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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Todd + Molly

Middle Initial: _____

Last Name: Hall

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.

We have supported integrated oyster farming and the estero for 20+ years.

This is a rare but clear example of the NPS being wrong!

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* indicates required

City:*

State/Province:*

Postal Code:*

First Name:

Patrick

Middle Initial:

M.

Last Name:

Canney

Address:

Country:

Email:

POINT REYES NIS

2011 NOV 21 PM 3:13



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

Comments or Requests: *This company is important to the community. It is sustainable. I support a renewable Special Use Permit for Drakes Bay Oyster Company.*

Comment Form

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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Katherine

Middle Initial: _____

Last Name: Wernum

Address: _____

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. !!!

The farm is a wonderful addition to the park and adds to it's value and diversity. Please vote to enable it to stay!

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* indicates required fields

City:* [Redacted]

State/Province:* [Redacted]

Postal Code:* [Redacted]

First Name: Elizabeth

Middle Initial: R

Last Name: MILANO

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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