

Sierra Club re Drakes Estero Wilderness at Point Reyes National Seashore 7/15/09



Misunderstandings re Sierra Club & Wilderness

A recent editorial in the *Point Reyes Light* created misunderstandings regarding statements made by the Sierra Club after a KQED program about the Drakes Estero. (www.kqed.org/epArchive/R906301000).

The PRL asserted a supposed Sierra Club “confession” that the 1976 PRNS Wilderness Act says nothing specific about 2012. However, this is not a confession or even news. Back in 2006, a Sierra Club article noted that the 1976 Act did not set a date for any mandated action but instead made an over-riding statement:

“As is well established, it is the intention that these lands and waters designated as potential wilderness additions will be essentially managed as wilderness, to the extent possible, with efforts to steadily continue to remove all obstacles to the eventual conversion of these lands and waters to wilderness status.”

The PRL then quoted the Act sponsors, Tunney and Burton, about the oyster operation “continuing.” However, the quotes do not say, “continuing forever.” They simply mean that the Act did not require the oyster operation to close immediately, but rather allowed it to continue its pre-existing rights until 2012.

The PRL also offered two supposed examples of nonconforming uses allowed in potential wilderness but the Grand Canyon example is not a congressionally designated potential wilderness and the Sequoia example is a pre-decisional carve-out. Neither is similar to the rollback of a 33-year old congressionally-designated potential wilderness in PRNS.

Misunderstandings re Inspector General & NPS

Then there was the PRL’s assertion about the oyster operation’s 1972 Reservation of Use (ROU) NPS that noted its renewal clause but failed to note that this clause also states: *“any permit for continued use will be issued in accordance with the National Park Service Regulations in effect at the time the Reservation expires.”*

The 1976 PRNS Wilderness Act that calls for *efforts to steadily continue to remove all obstacles* represents the “NPS Regulation” that will be in effect in 2012 and thus it precludes renewal (unless wilderness opponents succeed overturning the Act).

The 7/11/08 Inspector General’s Report that exonerated PRNS Superintendent Don Neubacher from all the bias accusations leveled by the oyster company found that: *“Neubacher did not have the authority to extend any ROU...an extension of DBOC’s particular ROU would violate a congressional mandate that the oyster operation be removed as soon as soon as the ROU expires...”*

But the PRL asserted the exact opposite of both IG findings: *“an act of Congress is not required...It would simply take a signature from the superintendent...”*

Neither the Bush- nor the current Obama-appointed head of Interior agree with the PRL claim. In an irony ignored by the PRL, even wilderness opponents don’t agree, which is why they are supporting an act of Congress to overturn the 1976 Act.

That the PRL editorial has created misunderstandings regarding clear policy language only demonstrates how insecure its claims are. But the editorial also created misunderstandings about the science...

National Academy To Reconsider Baseline

The Point Reyes Light editorial failed to note that most NAS criticism of NPS science relates to two legitimate but still unresolved scientific disagreements: One over the ecological baseline, the other over site-specific impacts vs population impacts.

The ecological baseline is set by evidence of the extent to which native oysters were originally present in Drakes Estero. Native oysters were not uniformly distributed across their range and the NPS cited six archeological reports showing only trace amounts of native oysters in Native American shell mounds around the Estero.

On the other hand, the draft NAS Report incorrectly cited evidence that these shell mounds demonstrated native oysters were abundant in Drakes Estero so that citation had to be withdrawn. To its credit, the NAS will now reconsider its baseline and the evidence that supports it. But since that baseline is core to the Report as well as basis for much of the NAS criticism of NPS science, we requested that NAS delay its final Report until the issues were resolved.

But the NAS issued a “final” Report with the only evidence of its abundant-native-oyster baseline as the shell midden located ironically within tossing distance of the commercial oyster shucking plant.

The NAS cited this evidence despite an archeology analysis (Riley, 1976) stating, *“One of the oystermen... indicated that shells from the oyster farm had been heaped on [the midden]...The surface of the deposit is covered with shells from a species of oyster that I have not seen in other central California shellmounds. Furthermore, oysters are not a major constituent in any other Estero archeological deposit...[the visible “midden”] is a result of the oyster farm.”*

Yet the final NAS Report did not include either this analysis that cripples NAS evidence of abundant native oysters or any of the six reports submitted by the NPS that demonstrate evidence of only a trace amount of native oysters. NAS also omitted reference to studies indicating the presence of non-native commercial oysters likely inhibit restoration of native oysters. This is selective presentation, a misrepresentation and a significant over-interpretation of the available scientific information by the NAS.

Marine Mammal Commission to Review

The PRL also misunderstood that the NAS noted in many cases the NPS had underestimated impacts from the oyster operation, e.g. from invasive species encouraged by the operation. NAS also noted that NPS seal data did not capture impacts during foraging, weekdays or low tide and that the NPS buffer between seals and oyster operations is only 91 meters, whereas the NAS notes *“visits [within 500 m] by oyster farm workers can be expected to lead to short-term disturbance.”*



The NAS also criticized NPS science for use of site-specific rather than population impacts on seals and other species. However, the Club noted that disregard of site-specific impacts contravened NPS policy, the Marine Mammal Protection Act and Endangered Species Act. So the Marine Mammal Commission will conduct an independent review. We requested that NAS include a reference to that review, but the Report was finalized without reference.

Precedent: Coming to a Park Near You Soon

Thus the NAS Report still contains major unresolved controversies on ecological baseline and site vs population impacts, but was used anyway to fuel criticism of NPS and justify the appropriations bill rider. One must wonder if there was a rush to publish.

The rider contravenes the Wilderness Act as well as NPS competitive bidding rules for the exclusive benefit of perpetuating a commercial business. The rider gives the business veto power over scientific recommendations that protect Park resources and wildlife from the impacts of the business's operations. The rider will extend the business past 2012 in clear contradiction to the intent of Congress to phase out non-conforming commercial businesses in this potential wilderness. The rider will no doubt encourage other commercial entities, especially those inconsistent with the NPS mission, to seek special exceptions elsewhere. The rider should be stopped.

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for the Drakes Estero Wilderness 7/20/09**

