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California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
Via Electronic Delivery: Larry.Simon@coastal.ca.gov

Re: Object to the Point Reyes National Seashore General Management Plan Amendment, Federal Consistency Determination

Dear Mr. Simon,

The Environmental Action Committee of West Marin (EAC) is based in Point Reyes Station and has been working to protect the unique lands, waters, and biodiversity of West Marin since 1971. Since our inception, we have been committed to the health of West Marin's lands, estuaries, bays, and watersheds.

We submit these preliminary comments requesting the California Coastal Commission (Commission) object to the Point Reyes National Seashore (Seashore) General Management Plan Amendment (GMPA) Final Environmental Impact Statement (Final EIS), Federal Consistency Determination as the Final EIS is not consistent to the maximum extent practicable with the California Coastal Act.

Our comments are based on the jurisdictional authority of the Coastal Act Chapter 3 and organized under Sections 30230 Marine Resources and 30231 Biological Productivity and Water Quality. Within these categories, we highlight four areas of consideration by the Commission including:

1. Areas of Special Biological Significance: Drakes Estero, Drakes Bay, and Abbotts Lagoon;
2. Proposed Mitigation Limitations: Water Quality Standards;
3. Proposed Mitigation Limitations: Implementation Feasibility; and
4. Proposed Mitigation Limitations: Resource Protection Zone.

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1. Areas of Special Biological Significance: Drakes Estero, Drakes Bay, and Abbotts Lagoon

Drakes Estero is considered an area of special biological significance, as confirmed through federal and state designations including the 1976 Point Reyes Wilderness Act (Public Law 94-544), and the 2009 California Department of Fish and Wildlife designation of the Drakes Estero State Marine Conservation Area. Section 30230 of the Coastal Act requires that special protection be given to areas and species of special biological significance.¹

In our 2019 comment letter to the National Park Service (NPS), EAC noted the publication by the Central Coast Wetland Group's detailed analysis of coastal estuaries on the West Coast and it concluded that nearly 750,000 acres of historic tidal wetlands have disappeared. This study points out that Drakes Estero has only lost 2.7 percent of historic habitat, highlighting the special biological significance of Drakes Estero and its importance as a functional interconnected ecosystem.²

The Seashore is subject to the San Francisco Regional Water Board's (Regional Water Board) Basin Plan for the Marin Coastal Basin³ through the *Water Quality Control Plan for the San Francisco Bay Basin*. This Plan requires that operations within the Seashore not discharge waste in a way that would impede beneficial uses. The beneficial uses associated with the Drakes Estero, Abbotts Lagoon and Drakes Bay waterbodies and tributaries that require protection include: Marine Habitat (MAR), Fish Migration (MIGR), Preservation of Rare and Endangered Species (RARE), Water Contact Recreation (REC-1), Noncontact Recreation (REC-2), Fish Spawning (SPWN), Warm Freshwater Habitat (WARM), and Wildlife Habitat (WILD)⁴.

Unfortunately, the Final EIS fails to adequately consider the indirect impacts ranching activities have on water quality and biological productivity despite noting in the Final EIS Chapter 3: Affected Environment, the "observed high concentrations of total suspended solids and nutrients present *in Drakes Bay and Drakes Estero* watersheds...that surrounding land uses such as ranches and pastures for dairies and other livestock operations contribute to nutrients and sediment...and that occasionally high fecal indicator bacteria counts have been observed in some drainages."⁵

The Final EIS further explains that the drainages to Drakes Bay have recorded historically high fecal bacteria counts, with only 38 percent (i.e., 62 percent failure rate) of the 2007-2013 sampling passing the

¹ California Coastal Commission, *Addendum to CD-0001-15 – National Park Service, Point Reyes National Seashore*, page 18, 2015.

² Environmental Action Committee of West Marin, General Management Amendment Comment Letter, page 19, September 23, 2019. Available at: <https://bit.ly/36MvCD4>

³ Regional Water Quality Control Board, *Marin Coastal Basin Map*, available at: https://www.waterboards.ca.gov/sanfranciscobay/basin_planning.html.

⁴ Regional Water Quality Control Board, *Table 2-1: Existing and Potential Beneficial Uses of Water Bodies in the San Francisco Bay Region*. available at: https://www.waterboards.ca.gov/sanfranciscobay/basin_planning.html.

⁵ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement*, page 77, 2020.

public health safety standards. *Abbotts Lagoon* (another Congressionally-designated Wilderness and arguably an area of special biological significance) is fed by streams which carry discharge from dairies that have the highest nutrient levels or loading rates.

In these areas (and others) the Final EIS highlights how beneficial uses are not adequately protected⁶ and proposes mitigations that are insufficient to ensure future protections, as they lack enforceable mechanisms to realize full implementation effectiveness.

Sections 30230 and 30231 of the Coastal Act require that the Commission find that the proposed actions provide special protection of these areas of special biological significance. The Final EIS not only fails to meet that heightened standard, but fails also to meet the basic requirement that the biological productivity of these waters be maintained, and, where feasible, restored.

In order to be consistent to the maximum extent practicable with the relevant coastal management policies, the Final EIS must minimize adverse effects through enforceable mitigation measures, implemented in a timely manner, accompanied by ongoing scientific monitoring and data collection to assess their effectiveness. The Final EIS fails to apply this standard as further outlined in detail below.

2. Limitations of Proposed Mitigations: Water Quality Standards

Chapter 4 of the Final EIS (Environmental Consequences: Water Resources) outlines the cumulative impacts of ranching activities:

Each of the proposed alternatives would affect water quality and quantity in the planning area and vicinity, including changes in pollutant loading (i.e. pathogens, nutrients, sediment, and other pollutants), flow patterns, infiltration, and changes in the amount of water use⁷.

The Final EIS further states, these negative cumulative impacts would be minimized based on the “change in the nature of the operations by alternative as well as mitigation measures⁸...”

To mitigate the degradation of the marine environment and surrounding watersheds NPS included proposed mitigations in Appendix F: Management Activities, Practices Standards, and Mitigation Measures; and Appendix L: Coastal Watershed Water Quality Analysis.

- Appendix F purports to protect natural resources while allowing continuing ranching practices to occur with special lease/permits or Ranch Operating Agreements (ROA) and subject to general terms that would constitute overall authorization for ranch families to operate on park lands in

⁶ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement, Appendix L: Coastal Watershed Water Quality Analysis*, Introduction, 2020.

⁷ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement*, page 125, 2020.

⁸ *See Id.* page 6, page 126.

specific subzones. All management activities analyzed in the Final EIS are intended to guide planning, implementation, and operation and maintenance for ranches.⁹

- Appendix L provides an analysis of the pollutants, like sediment and fecal coliform bacteria, to surface waters through either runoff or direct access by livestock grazing and dairy operations that pose risk to human health and cause ecological degradation. Surface waters may become contaminated by fecal coliform, by excess nutrients (nitrogen and phosphorous) from animal waste that leads to eutrophication, by reduced oxygen levels for aquatic ecosystems, and by erosion from the presence of cattle on stream beds and shorelines that reduces vegetation.¹⁰

However, our understanding of the Appendix F is that its mandatory mitigation measures would apply to projects authorized in the Final EIS upon implementation of *new activities* by the lessee¹¹; however, the Final EIS fails to address the adverse effects of current operational practices. For example, beef grazing operations not subject to organic standards or Regional Water Quality Control Board discharge permits or waivers – like several operations surrounding Drakes Estero – do not include a requirement for the development of a manure or nutrient management plan or Ranch Water Quality Plan to minimize nonpoint-source pollution to surface or groundwater¹². What mitigation measures apply to these operations?

The ranch leases include language that compliance is required to reduce harm to beneficial uses of waterbodies, but again, enforcement and monitoring mechanisms by NPS are not clearly defined. In fact, some historic monitoring practices that provided datasets and trend data, no longer occur (i.e. water quality monitoring of tributaries for Drakes Estero ceased in 2013,¹³ and the Final EIS does not reference restarting this monitoring with the implementation).

Based on the Final EIS analysis¹⁴, 62 percent of the fecal bacteria samples fail public health safety standards within the Drakes Estero watershed and the only mitigation measures applicable are for new projects. If an operator does not have a need to modify or implement a new practice, business as usual may prevail, resulting in continued habitat degradation and pollution.

⁹ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement, Appendix F: Management Activities, Practice Standards, and Mitigation Measures*, page F 1-2, 2020.

¹⁰ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement, Appendix L: Coastal Watershed Water Quality Analysis*, pages 3-4, 2020.

¹¹ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement, Appendix F: Management Activities, Practice Standards, and Mitigation Measures*, page F 2, 2020.

¹² We do note, these operations are required to comply with the *Water Quality Control Plan for the San Francisco Bay Basin*, as referenced in section 2 of our letter; unfortunately, we are concerned about compliance to reduce harm to beneficial uses based on the Final EIS analysis of fecal bacteria samples.

¹³ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement, Appendix L: Coastal Watershed Water Quality Analysis*, Table 1: Descriptions and summary of fecal indicator bacteria and turbidity values recorded at 14 stations in Point Reyes National Seashore from 2000-2013. Page 9, 2020.

¹⁴ *See Id.* at 7

In addition, compliance with regulatory requirements is also unclear and compliance information is not publicly available. A 2018 presentation by the Regional Water Quality Board's Tomales Bay Grazing Waiver Program (Grazing Waiver)¹⁵ highlighted an average certification compliance rate of 54 percent for the years of 2010-2018¹⁶. This low compliance rate indicates a need to implement additional Best Management Practices (BMPs) for current grazing operations that will be authorized to continue operation with the approval of the Final EIS.

In order to protect biologically significant marine resources, an additional requirement should be included to require: 1) Ranch Water Quality Plan for all grazing operations, 2) timeline for implementation of the ranch water quality plan's BMPs, and 3) NPS water quality monitoring program to protect beneficial uses of water bodies. In addition, these plans and data must be publicly available and transparent (i.e. available online).

3. Limitations of Proposed Mitigations: Implementation Feasibility

The Final EIS provides permission for analyzed activities and assumes mandatory mitigation measures will be implemented by the lessee as part of the project. However, no specific implementation timeframe is proposed, and funding and staff resources are not in place to manage implementation and compliance monitoring. Essentially, the Final EIS allows for approvals of new activities without any concurrent implementation framework to protect marine resources, biological productivity, and water quality.

Once the Record of Decision is filed, prospectively in early 2021, ROAs can be issued and new uses allowed. This timeframe would place an impossible burden on the local NPS staff to manage and ensure compliance for operations on an impracticable scale. The reasonably foreseeable result would be an increase in adverse effects due to runoff and discharge of pollutants and sediment, contributing to further degradation of marine resources and water quality.

We are deeply concerned NPS is setting up an unattainable goal for proposed operational mitigations that assume to reduce adverse impacts of ranching without any realistic ability to enforce those standards once this process is finalized.

¹⁵ San Francisco Bay Regional Water Quality Control Board, Tomales Bay Watershed Grazing Waiver Program Status Summary, January 2018. *Note: only applicable to beef grazing operations enrolled in the Grazing Waiver Program that discharge to Tomales Bay Watershed. Does not include beef operations ranches discharging to Pacific Ocean (i.e. Drakes Estero).*

¹⁶ Regional Water Board data includes a total of 247 parcels (a mix of private and public lands that discharge into Tomales Bay Watershed). There is not information available to the public to breakdown the compliance rate in the Point Reyes National Seashore and Golden Gate National Recreation Area.

4. Limitations of Proposed Mitigations: Resource Protection Zone

The Final EIS includes a sub-zoning framework intended to protect natural and cultural resources, streamline the permitting process for typical ranching activities, and provide consistent guidance to ranchers across the 28,100 acres of the planning area. The plan identifies the creation of a new Resource Protection subzone that includes 2,000 acres and is identified as lands containing sensitive resources, such as creeks and riparian areas, some threatened and endangered species habitat, and archeological sites.¹⁷

Unfortunately, the Final EIS is missing a timeline for the construction of exclusionary fencing that would protect sensitive riparian areas, surface waters, and federally listed wildlife habitat from the impacts of grazing¹⁸.

EAC is currently partnered with the Seashore and Marin County Environmental Health Services collecting beach water quality samples at two recreational locations within the Seashore. One of the sites is at Drakes Estero. On every occasion when we are collecting samples, our team is stepping over cow manure on the shoreline. Additional measures to restrict access of cattle to the shorelines of Drakes Estero should be implemented to protect water quality. Attachment One of this letter includes photographs of manure and signage at the public restroom at Drakes Estero with a note to the public on conflict problems with cattle.

At Abbotts Lagoon, members of the public and Seashore nonprofit partners continue to observe cattle both on the shoreline and in Abbott's Lagoon at various times during the year¹⁹. This highlights the difficulties of maintaining fencing barriers around sensitive resources and protecting beneficial uses and the importance of ensuring that implementation of the mitigation measures outline responsible parties, include measures to ensure compliance and maintain fencing to prevent these recurring issues. Attachment Two includes photographs of cattle standing in Abbotts Lagoon.

In order to protect these sensitive resources as NPS intends along with protecting water quality and marine resources, a timeline should be included and the responsible party for installing and maintain the exclusionary fencing.

5. Additional Concern: Tule Elk

We understand the Commission's legal authority in a federal consistency review is that the proposed action will be undertaken in a manner consistent to the maximum extent practicable with the enforceable

¹⁷ National Park Service, *General Management Plan Amendment, Final Environmental Impact Statement*, page 37, 2020.

¹⁸ See *Id.* at page 15, page 172.

¹⁹ Incidents of cattle at Abbotts Lagoon are reported to the Seashore when observed.

policies of the California Coastal Management Program and that *all lands held in trust by or whose uses are subject solely to the discretion of the federal government are excluded* from this review.

However, based on public opinion and concern with aspects of the Final EIS, we find it necessary to comment on the plan to cull the tule elk in order to reduce conflicts with commercial ranching operations. As EAC noted in our 2019 comment letter to NPS, “*any strategies to manage the elk populations should be in the context of managing resources like other natural resources within the Seashore and not for the benefit of commercial lease holders*”²⁰.”

We understand there are alleged conflicts between ranching operations and the tule elk, but it is inappropriate that a native species, regardless of its listing status, would have its population reduced annually to benefit a commercial operation. Other management strategies are available to NPS to manage the elk populations.

Conclusion

Thank you for consideration of our comments on the Seashore’s GMPA Federal Consistency Determination.

We hope the Commission will consider the limitations of the proposed mitigation and BMPs in the Final EIS. Without the ability to implement and manage all aspects of mitigation, the plan fails to reduce adverse impacts to coastal resources. We recommend an objection to the consistency determination.

Sincerely,



Morgan Patton
Executive Director



Bridger Mitchell
Board President

²⁰ Environmental Action Committee of West Marin, General Management Plan Amendment Comment Letter, page 24. September 23, 2019. Available at: <https://bit.ly/36MvCD4>

Attachment One: Drakes Estero Marine Wilderness

Image One: Cow Manure along the shoreline at Drakes Estero. Public access area (kayaks and paddleboards). November 7, 2020. Located at 38.082893, -122.932599



Images Two and Three: Public restroom blocked due to cattle management issues
November 17, 2020. Located at 38.082809, -122.932261
Sign Reads: *“Please leave in place. It keeps the cows from defecating in the entry way.”*



Attachment Two: Abbotts Lagoon Wilderness Area

Image One: Cow standing in Abbotts Lagoon.

November 29, 2019. Located at 38.118028, -122.951422



Image Two: Cattle standing in and urinating in Abbotts Lagoon captured by field camera.

September 29, 2019. Located at 38.119, -122.952

