

# What you may not know about the laws governing Drakes Estero

**GUEST COLUMN**  
BY DR. LAURA WATT

A few weeks ago, many of us attended scoping meetings intended to galvanize public comment on the environmental review process the NPS is now undertaking, to analyze potential impacts of offering Drakes Bay Oyster Company (DBOC) a ten-year Special Use Permit to continue oyster cultivation.

Attendees were greeted by smiling park staff, stationed by flip charts on which to record comments, as well as several poster boards with basic information about the question at hand—that DBOC has requested a permit, that potential wilderness designation covers the Estero, a description of NEPA, and the project's objectives and impacts to be studied. Similar information was available in a "you are invited to participate" handout.

While I understand the rationale of not having any formal presentation by the NPS, given how fractured the community is over this issue, I believe something has been lost from the process as a result. There is a great value gained from hearing something as a group, rather than individually in one-on-one ques-

tion-and-answers with park staff; only a group discussion can create a shared understanding of what the EIS is really aiming to analyze.

This shared understanding is particularly needed in this instance, as all of the ranches still operating within the Seashore's boundary have gone through this transition, from a reservation of use (RUO) to special use permit for commercial operations, and not a single one had any kind of NEPA/impacts analysis done for the issuance of that permit. (In fact, grazing has been completely removed from some lands, after decades of continual use, without any analysis or consideration of possible effects.) The whole idea that the NPS must analyze the impacts of issuing a permit to continue an existing use is pretty unprecedented.

Perhaps more importantly, the poster boards and handout did not genuinely convey the full context of management issues at stake in the Estero, nor how the project's objectives were defined at the start of this process. Instead, they set the project up as a simple clash between two concepts, "wilderness" and "commercial operation." But this is not a conceptual choice; it is a proposed change in management that would create specific on-the-ground outcomes. Hence this column offers some additional context for those outcomes which readers may find

helpful as they frame their opinions at this early stage in the process.

First of all, it is important to know that it is Park Service policy to manage all potential wilderness areas as if they were "full" wilderness, with the exception of whatever non-conforming use or claim is preventing designation as such. The 2006 NPS Management Guidelines (Section 6.3.1) not only state that the agency will manage potential wilderness as wilderness "to the extent that existing non-conforming conditions allow," they also direct park staff to "apply the principles of civic engagement and cooperative conservation as it determines the most appropriate means of removing temporary, nonconforming conditions that preclude wilderness designation from potential wilderness."

In the case of Drakes Estero, it was given "potential wilderness" status back in 1976 both because of the on-going oyster cultivation, and the State of California's reserved fishing and mineral rights to the submerged lands. Hence, conversion from potential to full wilderness, if DBOC were to cease operations, would not actually change most of the current management approach in the Estero—the only thing that would be substantially different is the presence or absence of the oyster racks, and DBOC's boat making its treks from shore to the racks and

back. This removal of filter feeders could have major ecological impacts, as well as economic and cultural reverberations, which is what the EIS will hopefully analyze, but all other management goals and use restrictions would remain in place.

Conversely, if the permit is issued for DBOC to continue production, potential wilderness designation would also remain unchanged, as would the current management approach. There is nothing about allowing a prior non-conforming use to continue in a potential wilderness area that "rolls back" or eliminates Congressional designation.

There are other examples of commercial operations utilizing lands designated as potential wilderness within national parks, such as the High Sierra camps in Yosemite, which have operated commercially for years, and in fact have an enormous waiting list for registrants; nothing about the camps' presence has compromised the potential wilderness status of those lands.

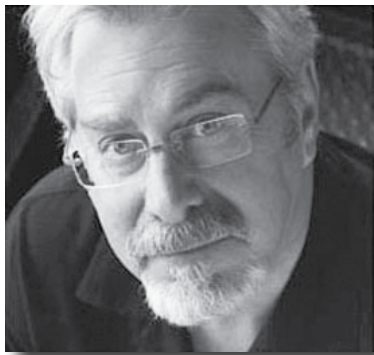
It is also important to clarify that the permit in question would be for use of the land on shore where the oyster processing facilities are, rather than use of the Estero itself; the relevant document for use of the tidelands is DBOC's shell-

Please see facing page

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## WEATHER

Date	High	Low	Rainfall	
			Wood.	Inv.
Nov 11	58	34	0.00	0.01
Nov 12	61	35	0.00	0.01
Nov 13	61	37	0.00	0.01
Nov 14	66	43	0.00	0.01
Nov 15	66	46	0.00	0.01
Nov 16	60	40	0.00	0.01
Nov 17	59	37	0.00	0.01

Temperature measurements from Woodacre  
Inverness rainfall since July 1: 42.75 inches  
Inverness average since 1925: 37.38 inches

## TIDES

Date	HIGH		LOW	
	A.M.	P.M.	A.M.	P.M.
	Time	Ft.	Time	Ft.
Nov 18	9:19	5.2	10:51	3.7
Nov 19	9:49	5.4	11:39	3.8
Nov 20	10:20	5.5	----	----
Nov 21	10:54	5.6	12:25	3.9
Nov 22	11:31	5.7	1:10	4.0
Nov 23	12:11	5.7	1:55	4.0
Nov 24	12:55	5.5	2:41	4.0

These tide heights and times are accurate for the town of Marshall.

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fishing lease with the California Department of Fish and Game, which was renewed in 2004 and runs until 2029. The site map offered at the scoping meetings did not clearly make this distinction, and is confusing as a result. And given the remaining State claims to fishing and mineral rights in the Estero, it's not clear that removal of the oyster operation would actually change the water's official status to "full" wilderness.

The Seashore's 1980 General Management Plan, written four years after the wilderness designation and which is still its guiding document (since the new Update hasn't been completed yet), supports continuing the oyster operation; specific goals include that the agency "monitor and improve mariculture operations, in particular the oyster farm operation in Drakes Estero, in cooperation with the California Department of Fish and Game," "monitor and support productive land uses and activities which are consistent with historic patterns," and "ensure that agricultural and maricultural activities are consistent with the historical evolution of land and water use in Point Reyes." Not issuing the permit would contradict the Seashore's own plan.

From my own experience as an environmental planner, working on resource management plans with the BLM, I've found that the better educated the public becomes on the issues at hand, the more engaged they become in a positive and beneficial way—and their comments,

suggestions, and feedback become more genuinely useful in guiding the planning process. Hence I am offering this perspective to the public, after sharing them with PRNS staff directly, in the hope of adding to the understanding of those who have not already decided they are "for" or "against" the oyster farm or wilderness designation.

Ultimately, reality is more complex than this duality suggests; in considering management options for the Estero, we also need to remember that no one who deeply appreciates the wilderness is truly disconnected from civilization: the NPS relies on visitor-days to tally its popularity, the Wilderness Society depends on donations from city slickers like myself, and even John Muir only could keep rambling through the Sierras by either tending a sawmill or writing books that urban elites would buy and read.

This Drakes Estero controversy represents a rare case of actually seeing wilderness and working landscape side by side, seeing how attached and interwoven they are, how each depends on the other—regardless of our official designations.

*Dr. Laura A. Watt is an assistant professor of Environmental Studies and Planning at Sonoma State University, and is currently writing a history of the management of working landscapes at Point Reyes National Seashore, to be published by the UC Press.*




David Briggs

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