



# United States Department of the Interior

NATIONAL PARK SERVICE

POINT REYES NATIONAL SEASHORE  
POINT REYES, CALIFORNIA 94956

IN REPLY REFER TO:

L1425  
Tract 02-106

June 27, 1991

Mr. Brian Hunter  
Regional Manager  
California Department of Fish and Game  
7329 Silverado Trail  
Yountville, CA 94599

FISH & GAME

JUN 28 1991

YOUNTVILLE

J.

Dear Brian:

We note that Mr. Rufus B. Howell, Chief Environmental Health Services Section of the Department of Health Services, wrote Mr. Tom Johnson of the Johnson Oyster Company and conditionally approved a portion of Drakes Estero as a shellfish growing area. The Oyster Allotment Location Map No. 438-01 was attached to Mr. Howell's June 21 letter.

While the allotment area may be approved from a public health view, the allotment includes the mud flats in Drakes Estero and Home Bay. The mud flats are used as harbor seal haul out areas and use of these areas by the allottee would seem to be a violation of the Marine Mammal Protection Act of 1972, PL 97-58, 16 U.S.C. 1371.

A copy of Mr. Howell's June 21 letter is enclosed along with a copy of our March 19 letter to Mr. Hansgen responding to the draft shellfish management plan. Our March 19 enclosure includes a map outlining the harbor seal pupping areas.

We will appreciate your comments and suggestions.

Sincerely,

John L. Sansing  
Superintendent

Enclosures

cc w/c encs:

Joseph G. Cordaro, Chief, NMFS  
Diane Windham, NMFS

L3019

March 19, 1991

Mr. Kenneth H. Hansen  
California Department of Health Services  
Environmental Health Services Section  
714 P Street, Room 616  
P. O. Box 942732  
Sacramento, CA 94234-7320

Dear Mr. Hansen:

We have the following comments and suggestions relative to your draft Management plan for Commercial Shellfishing in Drakes Estero.

1. Page 7, Section 2J: The statement refers to the lands surrounding the Estero as being within the boundaries of Point Reyes National Seashore. This statement is correct but we suggest that the plan should also indicate that the tide and submerged lands were ceded to the United States except for fishing and mineral rights.

2. Page 7, Section 4: Consideration should be given to closing the lower half of the Estero to oyster operations during the March 15 to June 15 harbor seal pupping season. We might add that some of the oyster beds fall within the pupping area. A map showing the haul out and pupping area is enclosed. Public Law 92-522, the Marine Mammal Protection Act, prohibits the taking of seals. "Taking" is defined as harass, capture, or kill or an attempt to harass, capture or kill marine mammals. We also understand that the removal or degradation of habitat has been considered harassment.

3. Page 8, Section 4: The number of residences currently in use at the Johnson Oyster Company facility is 14 instead of 7 as stated in the draft plan.

4. Page 8, Section 5b(1)(a): The number of seals in the Estero by last count was approximately 1,000 during the spring and summer, and approximately 800 during the fall and winter months.

5. Page 9, Section 5b(2)(b): There is no operating dairy within the Drakes Estero watershed. Some of the Horick dairy pasture falls within the watershed but there no operating facilities associated with milking operations which impact the Estero. Except for replacement dairy cows grazing on the former E Ranch, no dairy cattle are associated with Schooner Bay, Creamery Bay, or Barries Bay to the degree indicated in the draft plan. The overall impact from dairy cows is no greater than can be expected from beef cattle operations. In fact beef cattle operations likely now have a greater impact on the watershed.

6. Page 10, Section 5b(2)(d): There are no tule elk grazing in

the Drakes Estero watershed.

7. Page 10, Section 5(2): The remote weather station at the Seashore's North District Ranger Station is operated by the National Park Service. It is not operated by NOAA as indicated in the draft plan.

8. General comments:

a. Plastic lids and tubing are continually washing up on the shores of the Estero as well as Drakes Beach. This, of course, precipitates periodic complaint letters and verbal complaints. We would like that issue addressed and resolved. We suggest that the plan also require the Johnson Oyster Company to remove the racks not in use as well as the debris created during rack repairs.

b. It appears that some of the beds the Oyster Company is using do not fall within the allotment boundaries indicated on the map included with the draft Management Plan.

c. We believe that oyster operations should not be allowed on the mud flats. As indicated on the enclosed map some of the flats include oyster beds as well as harbor seal haul out and pupping areas. The remainder of the mud flats area used as feeding areas by a multitude of shorebirds including the Black Brandt.

d. We suggest that the leased bed boundaries be changed to exclude the shoreline by 50 to 100 yards. This is especially important for the Bull Point shoreline which is easily reached by Seashore visitors. At low tide they have ready access to the oyster baskets located along the shoreline.

Thank you for giving us the opportunity to comment.

Sincerely,

John L. Sansing  
Superintendent

cc w/c inc:  
James Lecky, NMFS

cc w/o inc:  
Brian Hunter, CDF&G

bc w/o inc:  
Chief Ranger  
North District Ranger  
Resource Management Specialist

JLSansing:an 3/19/91