

Synopsis  
Inter-Agency Meeting re. Johnson Oyster  
December 9, 1991

Attending:

National Park Service

John Sansing  
LeeRoy Brock  
William Shook  
Gary Fellers  
Richard Bryant  
Russel Case

National Marine Fisheries Service

Diane Windham  
Charlie Clark  
Tim Broadman

Calif. Dept. of Fish and Game

Frank Henry  
Bob Hulbrock  
Thomas Moore

Calif. Public Health Service

Greg Langlois

**Bryant** opened the meeting by stating Point Reyes National Seashore concerns regarding the environmental impacts of Johnson Oyster operations. These concerns included harassment of marine mammals, impacts upon birds, impacts upon eel grass beds, litter and debris and expansion of oyster racks outside the lease allotment

A distinction was made between intentional and unintentional harassment. One incident of intentional harassment has been documented. Bryant related a number of observed instances of unintentional harassment. He also stated that seal researcher Sarah Allen has documented approximately five cases of unintentional flushing of harbor seals per year.

**Moore** stated that the responsible party to the documented intentional harassment had been disciplined.

**Fellers** raised the question of the relationship between mud flats and pupping/haul-out activities of the harbor seals. He noted that a traditional pupping site in the southwest corner of the estero was now occupied by oyster racks. Additionally he stated that there has been a decline in harbor seal reproduction as Johnson Oyster activities have increased. He also said that the Johnson Oyster debris clean-up activities are accomplished by boat and in and of themselves are resulting in disturbance to seals. The question was raised as to whether clean-up could be accomplished along the beaches by vehicle access. Fellers also stated that he has observed Johnson Oyster employees travelling near haul out sites to engage in recreational fishing.

**Moore** stated that oyster racks have been in the area in question since at least 1985.

**Henry** said that there was no reason for that recreational use near the mouth of the estero, and that Johnson Oyster employees should be staying within main channels during their operations. He would also like more perspective on activities in the estero.

**Broadman** said that populations of harbor seals have been stable, but pupping success has not, and that reproduction of the seals may be density driven.

**Bryant** noted that increases have been noted in other pupping sites such as Double Point.

**Sansing** asked how much flexibility there was in the Johnson Oyster lease.

**Hulbrock:** The lease would not be easy to change and the term of the current lease does not expire until the year 2014. Any changes in the mariculture lease would be up to the Fish and Game Commission. He added that Johnson Oyster is willing to cooperate on the timing of operations to accommodate the seals. Johnson Oyster considers the critical area mentioned by Fellers to be a good production area and that the production areas are operated on a 14 to 24 month cycle. The arms of the estero are needed to operate during times of PSP closure.

**Case** asked whether Johnson Oyster could suspend operations near critical areas during the period of the Seashore pupping closure.

**Hulbrock** said that it could be discussed with Johnson Oyster. He also said that Johnson Oyster is making an effort to pick up trash and debris.

**Henry** stated that there is 30 years of trash that is being mobilized and that all of the debris is not recent.

**Bryant** said that he has observed Johnson Oyster employees discarding items into the estero on a number of occasions.

**Case** said that Rangers have observed Johnson Oyster clean-up crews "goofing off" and not picking up trash.

**Windham** suggested that the NMFS agents explain the provisions of the Marine Mammal Protection Act (MMPA) relating to harassment.

**Clark** gave an overview of the MMPA as it pertains to harassment and described the burden of evidence for harassment cases. He said that such cases are difficult to prove in court and that they only have loose guidelines under which to operate. NMFS would investigate any complaints of harassment, but it would be the discretion of their legal division whether to prosecute. Repeated observations of harassment are only a yardstick. All incidents would be on a case by case basis.

**Windham** stated that NMFS would support another entity in approaching the F&G Commission for a lease change. Any case would have to be well established.

**Broadman** wanted to know what the vessel restrictions were for Drakes Estero.

**Windham** stated that all involved parties need to be apprised of the situation and the seriousness of MMPA requirements.

**Henry** said that there may be justification for bed restrictions based upon the new mapping.

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**Hulbrock** said that there needs to be consistent application of regulations to the public and Johnson Oyster. Problems should be worked out through discussion with Johnson Oyster, ie. 100 yard approach restriction through agreement. He stated that it would be the position of Fish and Game to express the concerns stated in today's meeting to Johnson Oyster, and that a written agreement be reached concerning boat operation, seasonal closures, trash collection and rack location.

**Case** Would violation of such an agreement be grounds for changing lease boundaries?

**Hulbrock** Yes. It would be difficult to amend lease without Johnson Oyster concurrence.

**Henry**. F&G will be monitoring eel grass beds to determine density.

**Fellers** Asked about the status and disposition of abandoned oyster racks.

**Moore** stated that Johnson Oyster claims that there are no abandoned racks; that all racks are in use at some time.

**Broadman** recommended permanent closure marking and signing.

**Langlois** stated that Johnson Oyster takes samples for the PHS PSP program and that this requires boat access to the mouth of the estero. This is a weekly occurrence and is best accomplished at low tide.

**Clark** said that even with an agreement harassment investigations can occur for violation of MMPA.

A follow meeting was set for Jan. 15, 1992 at 10:00AM

Dec 9, 1991

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Tim Broadman	National Marine Fisheries Service - Enforcement 777 Sonoma Av Rm 203 SANTA ROSA 95404 707 578 3740
Charli Clark	" "
Diane Windham	" Rm 325 " 707 578-7513
Gary Fellers	Point Reyes National Seashore 663-8522
Russ Case	" " " "
Richard Bryant	" " " 663-8525
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