



Tracking Number: (2023-31MPA
)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Ashley Eagle-Gibbs, Environmental Action Committee of West Marin (EAC)

Address: 65 3rd St Suite 12, Point Reyes Station, CA 94956

Telephone number: (415) 663-9312

Email address: ashley@eacmarin.org

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Authorities cited: Sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

3. Overview (Required) - EAC requests the Commission subsume Drakes Estero State Marine Conservation Area (SMCA) into Estero de Limantour State Marine Reserve (SMR) to create a single SMR for Estero de Limantour and Drakes Estero.

Applying an SMR designation to the area currently known as Drakes Estero SMCA is consistent with the original goals of the Marine Life Protection Act (MLPA) including goals 1, 2, 3, and 4 related to preserving natural diversity, sustaining marine life populations, protecting marine habitats for their intrinsic value, and improving recreational and educational opportunities while minimizing human disturbance. This change would also make state regulation consistent with federal regulation of Drakes Estero, and it is supported by regional partners including consensus at the August 24, 2023 Golden Gate Collaborative meeting.¹ This would remove the allowance for recreational clamming.

¹ See rows 50-51, <https://docs.google.com/spreadsheets/d/1Eu1efUliHZ2bazdKM5IK5UKzsIEluHEU9k9HdR1oudo/edit#gid=0>



4. Rationale (Required) - Describe the problem and the reason for the proposed change:

From a review of the historical documents, in 2008, the Integrated Preferred Alternative presented by the Blue Ribbon Task Force stated “if at any time it becomes feasible to create an SMR at Drakes Estero, this proposal recommends doing so.”² Today, it is feasible and appropriate to create an SMR in the area currently designated as Drakes Estero SMCA.

The Estero is one of the last fully intact wetlands in the state of California and is a biologically rich estuary that consists of extensive eelgrass beds, tidal flats, wetlands, sand bars, and open water that supports a variety of fish, invertebrates, shorebirds, waders, waterfowl, and mammals including harbor seals and river otters.

Drakes Estero SMCA was established at a time when a commercial aquaculture operation was in business. Historic aquaculture operations have damaged some of the eelgrass habitat in Drakes Estero, and it is also known that human activity has already destroyed 90 percent eelgrass habitat statewide. The commercial operator closed in 2012, and the offshore and onshore infrastructure has been removed. The existence of commercial aquaculture at the time of the designation left a legacy of two separate Marine Protected Areas (MPAs) with differing designations within one body of water, leading to inconsistency.

The biologically rich habitat of Drakes Estero is very sensitive to disturbance and is ecologically contiguous with the neighboring Estero de Limantour SMR. The arbitrary boundary separation between Drakes Estero SMCA and Estero de Limantour SMR causes confusion and harms the SMR. This is because 14 CCR § 632(b)(47)(B) currently allows for the recreational take of clams in Drakes Estero SMCA. EAC’s Marin MPA Watch monitoring data (a program in partnership with the Point Reyes National Seashore and the California Academy of Sciences) shows that people leaving the boat launch on kayaks or canoes at Drakes Estero with buckets is not uncommon. It is unknown where they are headed, but it is also difficult for clambers to determine the boundary line between Drakes Estero SMCA and Estero de Limantour SMR, because they are located in the same body of water. This leads to individuals who wish to take clams in Drakes Estero SMCA to sometimes take clams in Estero de Limantour SMR. This is despite 14 CCR § 632(b)(46)(A) prohibiting any take in the Estero de Limantour SMR.

Further, the entirety of Drakes Estero was designated as Marine Wilderness in 2012 following the closure of the commercial operation in its waters. The Marine Wilderness Area stretches across Drakes Estero SMCA and into Estero de Limantour SMR. Wilderness areas are expected to receive the highest levels of protection from human activity.³ Following the Marine Wilderness designation, the Point Reyes National Seashore completed an expensive restoration project (\$4 million) in the waters of Drakes Estero to remove the aquaculture infrastructure, thereby allowing eelgrass to recover.⁴

² Copies of the historic documents were obtained via the MPA Collaborative Network team from the Fish and Game Commission, see p. 13 of https://drive.google.com/file/d/15PQ-D1sPJ94dnUBy8o_tBAHgkP96YcY6/view?usp=sharing & p. 5 of https://drive.google.com/file/d/132etwbkrP5zkNhsBqn_mxAJVtWk8e69a/view?usp=sharing.

³ Public Law 94-544 § 4(a).

⁴ <https://www.pressdemocrat.com/article/news/oyster-racks-pulled-in-cleanup-of-drakes-estero/> and see also National Park Service letter, November 14, 2022, Attachment 2.



The National Park Service is in support of merging Drakes Estero SMCA and Estero de Limantour into a unified State Marine Reserve because the entire area contains a federally designated wilderness area (see November 14, 2022 letter, attachment 2).

During the [Golden Gate MPA Collaborative meeting on August 24, 2023](#), consensus between meeting participants in support of this proposal was also achieved.⁵

SECTION II: Optional Information

5. **Date of Petition:** 11/30/23

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: MPA Section 632.

7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- Amend Title 14 Section(s): 632(b)(46); 632(b)(47).
- Add New Title 14 Section(s):
- Repeal Title 14 Section(s):

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Not applicable.

9. **Effective date:** *If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible.*

10. **Supporting documentation:** *Identify and attach to the petition any information supporting the proposal including data, reports and other documents:*

See index and attachments including letters of support from the National Park Service, Marin County Supervisor Dennis Rodoni, and Dr. Sarah Allen, as well as previously submitted EAC letters. We may further supplement this petition as additional information becomes available.

11. **Economic or Fiscal Impacts:** *Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:*

Fiscal impacts from this proposed change are expected to be minimal but could include lost recreational take opportunities, as well as costs associated with updating signage and outreach materials.

⁵ Rows 50-51, <https://docs.google.com/spreadsheets/d/1Eu1efUliHZ2bazdKM5IK5UKzsIEluHEU9k9HdR1oudo/edit#gid=0>



12. **Forms:** *If applicable, list any forms to be created, amended or repealed:* N/A

SECTION 3: FGC Staff Only

Date received: 11/30/2023

FGC staff action:

- Accept - complete
- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
- Granted for consideration of regulation change

Tracking Number

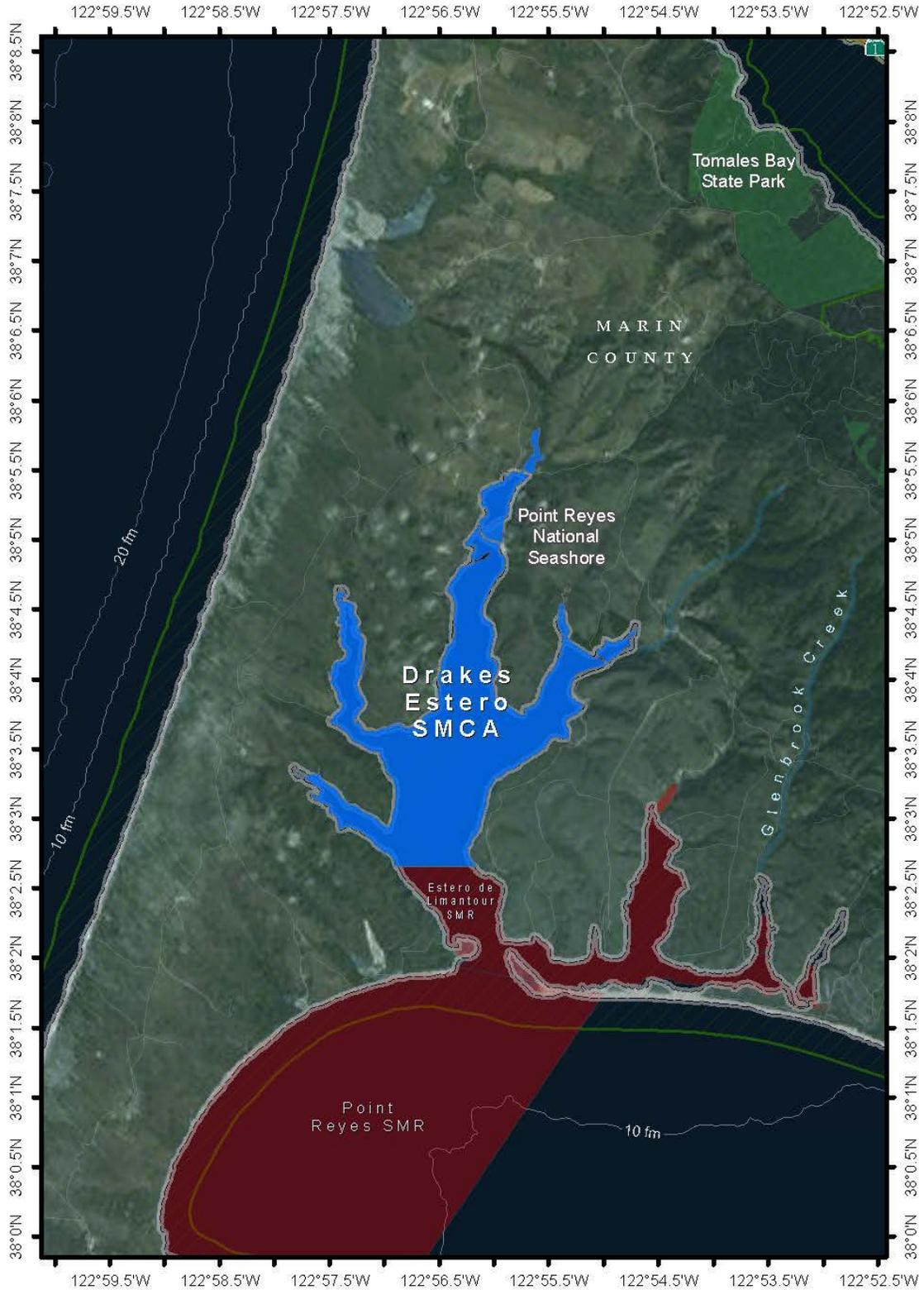
Index of Attachments Submitted re. Drakes Estero Petition by EAC, November 30, 2023

Attachment #	Date	Sender/Preparer	Description	Previously Submitted to FGC	FGC Meeting Document Link
1	11/30/23	Prepared by Environmental Action Committee of West Marin (EAC)	Map Attached to EAC's Petition re. Drakes Estero (1 page)	No	N/A
2	7/5/2023	EAC including attached letter from the National Park Service	EAC Comments to Fish and Game Commission re. MRC Agenda Item 5: MPA DMR Petition for Modification of Duxbury Reef and Drakes Estero MPAs including attachment (1) EAC April 6, 2023, comments to Fish and Game Commission including EAC March 13, 2023 letter and November 14, 2022 letter from National Park Service	Yes (Comment 7 to July MRC meeting documents, pp. 78-97 of meeting documents)	https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213546&inline
3	11/30/23	Prepared by Environmental Action Committee of West Marin (EAC)	Summary of MPA Watch Camera Data at Drakes Estero July 16 - Aug 16, 2022 (4 pages)	No	N/A
4	11/21/23	Marin County Supervisor Dennis Rodoni	Support for Environmental Action Committee (EAC) Petition to the California Fish and Game Commission for regulation change at Drakes Estero (2 pages)	No	N/A
5	11/25/23	Sarah G. Allen, PhD, Retired Senior Science Advisor National Park Service	Decadal Review Recommendations for the California North Central Marine Protected Areas (3 pages)	Yes	N/A - Was submitted 11/25/23
6	11/29/23	NGOs	Support for Environmental Action Committee (EAC) Petition to the California Fish and Game Commission for regulation change at Drakes Estero (2 pages)	No	N/A

ATTACHMENT 1

Attachment 1

Figure 1: Map Attached to EAC's Petition re. Drakes Estero
Prepared for Submission November 30, 2023
Sourced from historic documents



ATTACHMENT 2



July 5, 2023

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Sent via Email: fgc@fgc.ca.gov

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Re. Fish and Game Commission MRC Agenda Item 5: MPA DMR
Petition for Modification of Duxbury Reef and Drakes Estero MPAs

Dear President Sklar and Honorable Commissioners,

The Environmental Action Committee of West Marin (EAC) has been working to protect the unique lands, waters, and biodiversity of coastal Marin County since 1971. We are deeply committed to California's marine protected area (MPA) network and have been actively supporting MPAs through outreach, education, and community science activities since the first regional stakeholder meetings that would eventually establish the network of 124 MPAs.

We submit this letter to request that the letter we previously addressed to the Fish and Game Commission (Commission) in support of the MPA decadal management review (DMR), submitted on April 6, 2023, also be considered a petition to the Commission pursuant to California Fish & Game Code Section 2861(a), for addition to and modification of the MPAs at Duxbury Reef and Drakes Estero. A copy of that letter is enclosed herewith. This request is being made to ensure we are compliant with any additional procedures that are entailed in the presentation to the Commission of a "petition" as contemplated in Fish and Game Code Section 2861(a), which might not have been satisfied by the April 6 DMR comment letter submittal.

Furthermore, this letter also serves as a comment on the MPA DMR (Marine Resources Committee Agenda Item 5) for the July 20th meeting. We commend the Commission for the vision of the draft prioritized recommendations dated June 12, 2023. We thank the Department of Fish and Wildlife (Department) for their hard work on this prioritization, and we generally agree with the prioritization and timelines.

As an overall comment related to the prioritization, we urge the Commission to institutionalize climate-cognizant adaptive management to ensure that management of the MPA network can respond to sea-level rise and other climate changes. We also hope that the Commission will broadly embrace recommendation 4 and support changes to the MPA network and management program. We were pleased to see that recommendation 4 was identified as a near-term priority.

As requested in our prior comments, specifically, we petition for the Commission to recommend the following additions to and modifications of the

Drakes Estero State Marine Conservation Area (SMCA) and the Duxbury Reef SMCA, as currently described in California Code of Regulations Title 14, Section 632(b)(47) and (50), respectively:

1. Change the designation of Drakes Estero SMCA to a “State Marine Reserve” as described in California Code of Regulations (CCR) Title 14 § 632(a)(1)(A).
2. Change the designation of the Duxbury Reef SMCA to a “State Marine Reserve.”
3. Extend the southern boundary of the Duxbury MPA to the most southerly tip of Duxbury Reef exposed at mean lower low water, that is, to a point at approximately 37 deg. 53.1315' N. lat, 122 deg. 41.7549' W. long.
4. Extend the northern boundary of the Duxbury MPA to the Double Point/Stormy Stack Special Closure as described in CCR Title 14 § 632(b)(49).

We also request that: (1) the letter to the Commission dated April 15, 2023, from the Greater Farallones and Cordell Bank National Marine Sanctuaries (copy enclosed) be made a part of the record in support of this petition; and (2) that EAC and others be allowed to submit further written evidence and testimony in support of this petition.

Please advise us if there is any further step(s) that should be taken by EAC and/or others to present a “petition” to the Commission pursuant to California Fish & Game Code Section 2861(a). Finally, please do not hesitate to ask for any further information that the Commission believes will assist it in addressing this petition.

We also request that the Commission clarify the process of public engagement regarding the DMR going forward. A more streamlined and intuitive comment and petition system would allow for easier public engagement and would further the justice, equity, diversity, and inclusivity goals of the Commission. Clarity would be especially helpful regarding what type of regulation changes could be considered in the DMR and what types would require their own petition.

While we understand that this may be forthcoming, it would also be helpful to have clarity related to the focus of future meetings and the Department and Commission’s proposed work plan with some additional specificity related to how the public and stakeholders can participate most effectively.

Thank you for your consideration of our comments and all your work on the DMR process. We look forward to continuing to engage including review of the staff report and participation at the July 20th meeting.

Sincerely,



Ashley Eagle-Gibbs
Legal & Policy Director

cc: Susan Ashcraft, Marine Advisor, Fish and Game Commission
Becky Ota, Marine Habitat Conservation Program Manager, Department of Fish and Wildlife

Attachments: (1) EAC April 6, 2023, comments to Fish and Game Commission
(2) Greater Farallones and Cordell Bank National Marine Sanctuaries April 15, 2023, comments to Fish and Game Commission



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April 6, 2023

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Via Electronic Mail: fgc@fgc.ca.gov

Re. Agenda Item 25. Marine protected areas decadal management review

Dear President Sklar and Honorable Commissioners,

The Environmental Action Committee of West Marin (EAC) has been working to protect the unique lands, waters, and biodiversity of coastal Marin County since 1971. We are deeply committed to California's marine protected area (MPA) network and have been actively supporting MPAs through outreach, education, and community science activities since the first regional stakeholder meetings that would eventually establish the network of 124 MPAs.

We submitted written comments dated March 13th in advance of the Fish and Game Commission (Commission) Marine Resources Committee (MRC) meeting (attached to this letter), as well as providing oral comments at the March 16th MRC meeting related to the decadal management review. We appreciated the hybrid meeting format, which allowed us to participate remotely.

We submit this follow up letter with locally specific boundary and designation change requests to the full Commission to facilitate discussion at the April meeting. Related to our previously submitted requests (March 13 and 16), we highlight our key requests here for discussion and prioritization at the April meeting:

- 1) Request evaluation of Drakes Estero State Marine Conservation Area (SMCA) for a designation change to a State Marine Reserve,
- 2) Request evaluation of Duxbury Reef State Marine Conservation Area for a designation change to a State Marine Reserve and extension of the southern boundary to fully encompass the reef habitat area, and

- 3) Request a science-based analysis to review a northern extension of the Duxbury Reef SMCA to Double Point Special Closure based on increased visitation by the public to the Area of Special Biological Significance.

This letter and our prior letter are also supported by prior written comments submitted by the National Park Service dated (November 14, 2022, also attached).

As a final request, we would like to gain clarity on the process for boundary and designation changes.

- 1) Specifically, is it necessary to submit a formal petition related to these aforementioned requests and correspondence? It was not entirely clear at the March MRC meeting whether a petition is required or if the Department of Fish and Wildlife is able to recommend adaptive management strategies based on the Decadal Review and submitted comments. We respectfully request clarification to facilitate effective public participation in this process.

Thank you for your dedication to adaptive management, and we look forward to the April Commission meeting and more collaboration on the adaptive management prioritization and recommendations as we approach the July MRC meeting.

Sincerely,



Morgan Patton, Executive Director



Ashley Eagle-Gibbs, Legal and Policy Director



March 13, 2023

Fish and Game Commission Marine Resources Committee
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Via Electronic Mail: fgc@fgc.ca.gov

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Re. MRC Agenda Item 9: Marine Protected Areas (MPA) Decadal Management Review

Dear President Sklar and Commissioner Murray,

The Environmental Action Committee of West Marin has been working to protect the unique lands, waters, and biodiversity of coastal Marin County since 1971. We are deeply committed to California's marine protected area (MPA) network and have been actively supporting MPAs through outreach, education, and community science activities since the first regional stakeholder meetings that would eventually establish the network of 124 MPAs.

We continue our support for the network as members of the Golden Gate MPA Collaborative Network, collecting human-use activity data through our local MPA Watch program, Marin MPA Watch, with partners at the Point Reyes National Seashore, and we have created a team of local volunteers who provide outreach and education as intertidal docents at Duxbury Reef State Marine Conservation Area (SMCA).

Thank you for this opportunity to submit comments on the MPA Decadal Review. We want to thank the Department of Fish and Wildlife (CDFW) and Fish and Game Commission staff and partners for the momentous achievement related to the completion of the Decadal Review and accompanying report. The report highlights the effectiveness and importance of our state's unique and precedent setting MPA network.

Before our specific comments, we would like to note that due to the flooding in Monterey County, our team is unable to travel to the in-person meetings, including the Decadal Management Review Forum. We are grateful the Marine

Resources Committee meetings will have the opportunity for hybrid participation and the Monterey County emergency highlights the continued need for hybrid meetings to ensure broad-based public engagement opportunities in the future. We look forward to viewing the Decadal Management Review Forum online and we are disappointed we will not be able to ask questions or contribute to the discussion in person.

In general, we are supportive of many of the recommendations and future steps outlined in Chapter 6; however, we have included some specific comments related to our geographic area in coastal Marin County for additional consideration. We have organized our comments by the MPA Network Performance categories noted in Chapter 6.

1. MPA Network Design / Boundaries and MPA Designation Changes

We have included three specific requests below related to designation and boundary changes with additional discussion following.

Request 1: Include condition and use change data for MPAs to provide an assessment of changed conditions (i.e. on-shore and offshore activities and uses) that would inform the need for adapting the MPA Network Design that would include boundaries and designation changes that are in alignment with today's conditions and circumstances.

Request 2: Request evaluation of Drakes Estero State Marine Conservation Area for a designation change to a State Marine Reserve.

Request 3: Request evaluation of Duxbury Reef State Marine Conservation Area for a designation change to a State Marine Reserve and extension of the southern boundary to fully encompass the reef habitat area.

The Decadal Review needs to include a reference of site conditions of the 124 MPAs from the date of MPA designation compared to current-day conditions that include changes in surrounding on-shore or offshore commercial/recreational consumptive and non-consumptive uses, and visitation data. This information would be beneficial when analyzing information for boundary and designation changes based on changed conditions. We highlight two Marin County examples below:

Example 1: Drakes Estero State Marine Conservation Area

Drakes Estero State Marine Conservation Area (SMCA) was established at a time when a commercial aquaculture operation was in business. The commercial operator closed in 2012, and offshore and on-shore infrastructure has been removed. Drakes Estero was designated as Marine Wilderness in 2012 following the

closure of the commercial operation in its waters. Following the Marine Wilderness designation, the Point Reyes National Seashore completed an expensive restoration project (\$4 million) in the waters of Drakes Estero. The Estero is one of the last fully intact wetlands in the state of California, is an Area of Special Biological Significance, and a biologically rich estuary that consists of extensive eelgrass beds, tidal flats, wetlands, sand bars, and open water that supports a variety of fish, invertebrates, shorebirds, waders, waterfowl, and mammals including harbor seals and river otters.

On November 14, 2022, the Point Reyes National Seashore¹ submitted a letter to Dr. Craig Shuman, California Department of Fish and Wildlife Marine Region Manager, and to Samantha Murray, Fish and Game Commissioner, that supports a MPA designation change of Drakes Estero from a SMCA to State Marine Reserve (SMR) for the below reasons:

2010 designation as SMCA relied on presence of commercial aquaculture operation. DOI authorization of commercial aquaculture ended in 2012, and operations ceased in 2014. Area is now Congressionally Designated Wilderness, \$4m estuary restoration completed in 2017. Recreational take of shellfish appears to be very rare, requires long kayak trips in wilderness area with no cell service and limited emergency response. Increased protections for eelgrass, estuarine biodiversity, and marine wilderness. If converted to an SMR, join Estero de Limantour into a single SMR for naming and outreach purposes.

Example 2: Duxbury Reef SMCA

Duxbury Reef SMCA was established at a time when visitation to this area was very low and not many people were visiting the intertidal area. However, visitation to this MPA has been steadily and significantly increasing as previously unknown trails and beaches of Point Reyes National Seashore have begun to attract visitors to locations such as Alamere Falls.

Since 2017, MPA Watch volunteers documented approximately a 70 percent increase in visitation to Duxbury Reef that continued to increase in 2020 and 2021 during the pandemic.

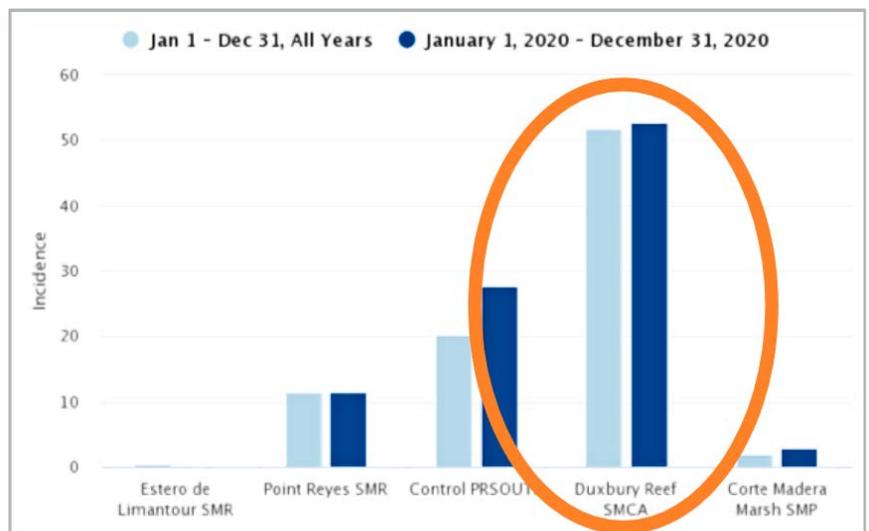


Figure 1. MPA Watch Recreational and Consumptive Activity 2014-2020 and 2020

¹ Letter from Point Reyes National Seashore to California Department of Fish and Wildlife, November 14, 2022

A comparison of the MPA visitation trends across all designated MPAs in coastal Marin County, Duxbury has the highest overall visitation count of all MPA Watch transects in Marin, the smallest area, and is a highly sensitive intertidal habitat.

Our MPA Watch 2020 Annual Report notes the rise in visitation in 2020:

This MPA [Duxbury Reef State Marine Conservation Area] recorded a use rate of 29.4 activities per mile surveyed. This is an increase of 79% compared to the prior year. 11% of the observations in the MPA are on-shore consumptive. 305 incidents of hand collection of biota in the intertidal were observed in the months of June, July, and August 2020 (emphasis added). Duxbury Reef SMR has the highest use count [66%] of all MPAs surveyed by Marin MPA Watch ... in one of the smallest survey areas. Duxbury Reef is a sensitive intertidal habitat where human impacts (trampling and collecting) may have long-term negative impacts to habitat and species.

In 2022, we established the Duxbury Docent program in partnership with Marin County Parks and Open Space which provides visitor education and collects MPA Watch human-use data. On the ground, our docents are engaging with the public and have first-hand experience in the confusion of the designation of the MPA that is leading to unintended compliance issues at this location. Specifically, we summarized below our docent experiences while interacting with visitors,

The allowance of finfish fishing from shore and notice about the allowance of abalone take at Duxbury generates confusion in the community and among visitors about what is and is not allowed.

At Duxbury Reef SMCA, our experience on the ground is that the permitted allowance of recreational finfish and abalone from shore is confusing to the public, and with increased visitation since 2017 this tends to lead to non-compliance that may be hindering the goals of the MLPA at this site.

The inclusion of community science data on human use, activities, and visitation data from overlapping jurisdictions, like the Point Reyes National Seashore in coastal Marin County, would provide a wealth of data that could assist in informing the adaptive management strategies of the MPA Network.

This would be especially beneficial when analyzing information for boundary and designation changes that would provide up-to-date information on changing conditions that would ensure the management of the MPAs are meeting the goals of the Marine Life Protection Act (MLPA)'s six goals².

² MLPA Goals: Protect the natural diversity and abundance of marine life, and the structure, function and integrity of marine ecosystems. 1) Help sustain, conserve and protect marine life populations, including those of economic value, and rebuild those that are depleted. 2) Improve recreational, educational and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity. 3) Protect marine natural heritage, including protection of representative and unique marine life habitats in CA waters for their intrinsic values. 4) Ensure California's MPAs have

2. Regulatory and Framework Review / MPA Network Design:

Request 4: Need for inclusion of biological and environmental condition status, community science data, and ecological habitat mapping when analyzing a need for MPA designation and boundary changes.

We support Recommendation #4 and request as part of the identification of science-based approaches to inform analysis that biological and environmental conditions, ecological habitat maps, and environmental designations (like Marine Wilderness, Areas of Special Biological Significance, etc.) are included.

We provide two examples below, Duxbury Reef and Double Point, related to immediately connected habitat areas excluded from MPA boundaries.

Example 1: Duxbury Reef SMCA

The current MPA boundaries of Duxbury Reef SMCA fail to encompass the entire reef that is exposed at a low tide. At low tide, people can walk to the portion that is outside the MPA, making it fully accessible. Figure 2 highlights the area that is part of the intertidal ecological habitat area but has been excluded from the MPA boundary.

In addition, the regulations state that the MPA seaward boundary is 1,000 feet from the seaward of mean, low, low tide, but the MPA boundary designation includes 1,000 feet from high tide. This language is ambiguous and confusing to the public.

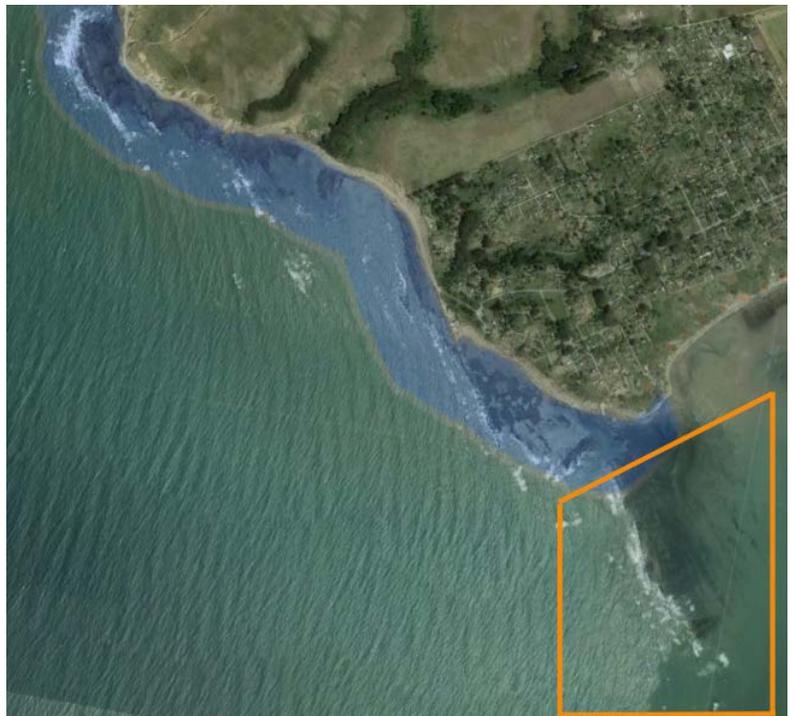


Figure 2.

Overlay of Duxbury Reef SMCA with an orange outline of the portion of the reef that is exposed at low tide that is not currently included in the MPA. A southern boundary extension of Duxbury Reef is needed to fully connect the ecological habitat area and reduce confusion for the public on what activities are allowed.

clearly defined objectives, effective management measures and adequate enforcement and are based on sound scientific guidelines. 5) Ensure the State's MPAs are designed and managed, to the extent possible, as a network.

Example 2: Double Point

North of Duxbury Reef SMCA is a Special Closure Area (Double Point) that is ecologically significant and connected to Duxbury Reef. In the November 2022 letter from Point Reyes National Seashore, they note there are concerns about the protection of seabirds, marine mammals, and concerns with kayaking disturbances of harbor seals. A long-established harbor seal monitoring program by Point Reyes National Seashore at this location includes datasets on harbor seal pupping and movements. At the time the Special Closure was established, there was little human activity and disturbance in this area until about 2017 when hiking to Alamere Falls became very popular.

A science-based analysis to review whether it would make sense to extend the Duxbury Reef MPA further north to the Special Closure should be considered with data provided by the Point Reyes National Seashore on the presence of marine mammals and disturbance events. A review of this type would inform whether there is a need to extend the Duxbury MPA boundary north or expand the Double Point Special Closure, which we think is likely warranted based on our current understanding and available data.

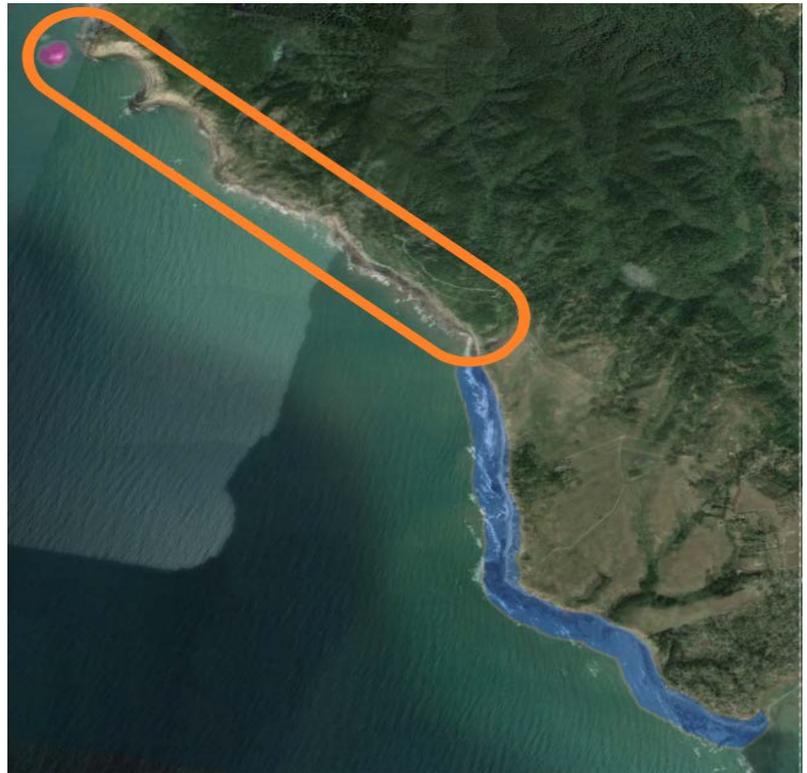


Figure 3. Image of Double Point Special Closure and Duxbury Reef SMCA boundary. The orange highlight indicates the area outside of the MPA network that is interconnected and includes an additional Area of Special Biological Significance (cove near Double Point closure).

3. Enforcement and Compliance:

Request 5: Need for enforcement volunteer programs in rural areas, specifically an extension of CDFW-trained enforcement volunteers piloted in 2020 at Pillar Point due to the high visitation and poaching incidents.

Duxbury Reef SMCA is located within a nexus of overlapping jurisdictional authority, including the CDFW, Greater Farallones National Marine Sanctuary, Point Reyes National Seashore, and Marin County Parks and Open Space. However, the only agencies who can issue citations in the areas where most people visit at Duxbury Reef are the CDFW and the Marin County Sheriff.

Duxbury Reef SMCA is a rural location with limited signage and a lack of cellular service. Prior to 2022 and the creation of our program, there was no established outreach and education program for visitors to learn about the intertidal environment and limited oversight from regulatory agencies to ensure compliance with MPA regulations.

MPAs, like Duxbury Reef SMCA, need additional resources to enhance outreach and educational efforts, otherwise, the area becomes an MPA only in name and is not meeting MLPA goals.

Since 2014, the MPA Watch program has collected human-use data including potential violation data that is not reflected in the public enforcement violation data. Specifically, the MPA Watch and Duxbury Docent programs have collected data on increased visitation prior to the noted influx of visitation due to the pandemic in 2020:

Since 2017, MPA Watch volunteers documented approximately a 70 percent increase in visitation to Duxbury Reef, and in 2020, more than 300 observations of hand-collection of biota were documented at Duxbury Reef over a three-month period along with a 79 percent increase in visitation compared to 2019.

In 2022, the Duxbury Docent program completed 65 shifts. Docents engaged with more than 1,000 members of the public and successfully deterred 37 potential consumptive use violations (hand-collection of biota) during those shifts through outreach and education.

While establishing the Duxbury Docent program is an important step, additional resources are needed from CDFW to help meet the goals of the MLPA at this MPA. For example, establishing a partnership program like the pilot program of CDFW-trained outreach volunteers at Pillar Point in 2020 would benefit the Duxbury Docent program as a partnership to improve outreach, education, and MPA regulatory compliance.

4. Enforcement and Compliance:

Request 6: Need for transparency in violation tracking and numbers of visits by wardens to specific MPAs.

It would be beneficial to the public to have a quarterly report available that lists the number of cited violations at each MPA and the number of visits by CDFW wardens to that location. This information would assist with reconciling the community science data collected by programs like MPA Watch with the enforcement data. This would assist with finding compliance and enforcement gaps and subsequently allocating resources for increased capacity, or establishing community partnerships for outreach and educational programs in the future.

5. Outreach and Education:

Request 7: Need for up-to-date signage that incorporates information/access to seasonal fishing regulations.

Throughout the MPAs located in coastal Marin County, signage continues to be a challenge. Locations within the Point Reyes National Seashore sometimes include signage that an area is an MPA and closed to fishing and collecting, while other locations include do not have signage. If there are other pressing public noticing requirements like during the pandemic, MPA signage was removed and replaced.

As CDFW analyzes what is useful for MPA signage and effectiveness related to compliance and education, it would be helpful to include options for the public to obtain up-to-date information using QR codes, including current fishing regulations and definitions. This is especially important in areas where there are overlapping jurisdictional responsibilities and within SMCAs where regulations may differ on what is allowed or not allowed. Specifically, as noted previously by our Duxbury Docent program volunteers,

Signage is not kept up to date to reflect specific closures and hyperlinks to Fish and Game Code is not included for visitors to reference and look up current regulations.

In general, much of the public is not up to date on the fishing seasons or what fisheries are open or closed, and the lack of information at access points creates confusion. Information for outreach and education also needs to be designed for the average recreational MPA visitor, and special signage for intertidal areas should be shared collaboratively throughout the state with intertidal groups to standardize messaging.

6. Tribal Coordination:

Request 8: Need for pathways to increased tribal coordination and inclusion.

We recommend increased and meaningful tribal engagement and co-management across all aspects of the MPA network including community science, building tribal capacity, improved coordination, and outreach and inclusion of all tribes, federal and non-federally recognized tribes.

7. Climate Resilience and Adaptation:

Request 9: Need to develop pathways to integrate with California's 30x30 Initiative, climate resilience, and adaptation goals.

We are actively engaged in coastal resiliency planning and the state's 30x30 implementation. Related to 30x30, we hope to continue the dialogue around how our MPA network intersects with California's 30x30 goals. Careful coordination is required between all these goals and planning processes to ensure the best outcome.

The Fish and Game Commission should work towards climate-resilient MPAs through an equitable, science-based process that is adaptive and includes additional monitoring metrics, connecting to the state's long-term monitoring goals. Our MPAs must be climate ready. It is important that the CDFW and the Fish and Game Commission consider the need for our MPA network to adapt to sea level rise, as wetland and public trust boundaries shift. The MPAs can also serve as important climate refugia sites.

8. Public Engagement and Timeline:

Request 10: Outline the opportunities for public engagement and timeline for consideration of incorporation of public comments on the Decadal Review.

We are grateful for the opportunity to comment on the Decadal Review but would like clarification from CDFW and the Fish and Game Commission on the recommended pathways to ensure that concerns raised in this comment letter are considered for inclusion in the adaptive management plans.

We also raise specific boundary and designation change requests that are localized to our geographic region and clarification on how those items will be considered and if it is appropriate as part of this process or would need to be raised independently of the Decadal Review.

Summary of Requests

Request 1: Include condition and use change data for MPAs to provide an assessment of changed conditions (i.e. on-shore and offshore activities and uses) that would inform the need for adapting the MPA Network Design that would include boundaries and designation changes that are in alignment with today's conditions and circumstances.

Request 2: Request evaluation of Drakes Estero State Marine Conservation Area for a designation change to a State Marine Reserve.

Request 3: Request evaluation of Duxbury Reef State Marine Conservation Area for a designation change to a State Marine Reserve and extension of the southern boundary to fully encompass the reef habitat area.

Request 4: Need for inclusion of biological and environmental condition status, community science data, and ecological habitat mapping when analyzing a need for MPA designation and boundary changes.

Request 5: Need for enforcement volunteer programs in rural areas, specifically an extension of CDFW-trained enforcement volunteers piloted in 2020 at Pillar Point due to the high visitation and poaching incidents.

Request 6: Need for transparency in violation tracking and numbers of visits by wardens to specific MPAs.

Request 7: Need for up-to-date signage that incorporates information/access to seasonal fishing regulations.

Request 8: Need for pathways to increased tribal coordination and inclusion.

Request 9: Need to develop pathways to integrate with California's 30x30 Initiative, climate resilience, and adaptation goals.

Request 10: Outline the opportunities for public engagement and timeline for consideration of incorporation of public comments on the Decadal Review.

Conclusion

Thank you for the opportunity to comment on the Decadal Review and for your consideration of our comments. We look forward to additional dialogue in the coming months as the public can comprehensively engage and participate in the pathways forward that will inform the future adaptive management decisions that help to ensure an inclusive, responsive, and resilient MPA Network.

Sincerely,

A handwritten signature in black ink, appearing to read 'MP', with a long horizontal flourish extending to the right.

Morgan Patton
Executive Director
Environmental Action Committee of West Marin

cc: Susan Ashcraft, Senior Environmental Scientist and Marine Advisor, California Fish and Game Commission; Melissa A. Miller-Henson, Executive Director, California Fish and Game Commission; Becky Ota, Marine Habitat Conservation Program Manager, California Department of Fish and Wildlife; Craig Shuman, Marine Region Manager, California Department of Fish and Wildlife; and Dennis Rodoni, Marin County Supervisor District 4



United States Department of the Interior



NATIONAL PARK SERVICE
Point Reyes National Seashore
1 Bear Valley Road
Point Reyes Station, CA 94956
Department of the Interior Region 10

IN REPLY REFER TO:

L7617

November 14, 2022

Craig Shuman, Marine Region Manager, CDFW

craig.shuman@wildlife.ca.org

Samantha Murray, President, California Fish and Game Commission

samanthamurrayfgc@gmail.com

Dear Mr. Shuman and President Murray:

The National Park Service (NPS) strongly supports the continued science-based and stakeholder driven designation and management of the most significant biodiversity focused Marin Protected Area (MPA) network in the United States. We anticipate the 10-year review will strengthen and reinforce the unparalleled benefits to protecting California's unique ecologically and economically important and irreplaceable marine biodiversity.

The NPS participated in the 2008 – 2009 stakeholder working groups recommending proposed Network of MPAs for the North-Central Coast. Since that time, NPS continues to support and conduct protection, education, monitoring, and research in the four State MPAs that overlap with the boundaries of Point Reyes National Seashore: Estero de Limantour State SMR, Drakes Estero SMCA, the Point Reyes SMR, and Duxbury Reef SMCA. Similarly, we also protect and monitor seabird and marine mammal populations in the three special closures within park boundaries: Point Reyes Headlands, Point Resistance Rock, and Double Point/Stormy Stack. We are proud to help protect and monitor these MPAs that both stakeholder subgroups overwhelmingly concurred on the Commission enacted MPA designations along the Marin County coastline.

The biodiversity protections established by these seven MPAs within the boundaries of Point Reyes National Seashore are key components in the NPS mission to “...*preserve unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations.*” Importantly, the majority of Point Reyes National Seashore's outer coast out to ¼ mile from shore is Congressionally designated as Potential Wilderness, which restricts commercial activities (including commercial fishing) and motorized equipment (including motorboats). These federal marine wilderness areas overlap partially or entirely with all seven State MPAs in Marin County.

Our continued support and engagement with the State MPA designations is summarized below where NPS, in collaboration with many partners, conducts ecological restoration, ecological monitoring, human use monitoring, research, protection, and education.

Table 1: Summary of National Park Service programs and projects in the seven State MPAs that overlap with NPS waters at Point Reyes National Seashore.

State MPA	Ecological Restoration	Ecological Monitoring	Human Use Monitoring	Research	Education	Protection
Drakes Estero SMCA	X	X	X	X	X	X
Estero de Limantour SMR				X	X	X
Point Reyes SMR	X	X	X	X	X	X
Duxbury Reef SMCA		X	X	X	X	X
Point Reyes Headlands Special Closure		X	X	X	X	X
Point Resistance Rock Special Closure		X	X		X	X
Double Point/Stormy Stack Special Closure		X	X	X	X	X

Recent and ongoing NPS investments in these State MPAs include:

- \$4m restoration of the Drakes Estero SMCA in 2016-2017 removing 3.6m lbs. of aquaculture debris and continued annual monitoring of eelgrass restoration.
- Annual harbor seal and/or elephant seal monitoring in all the MPAs (except Estero de Limantour).
- NPS Visitor and Resource Protection patrol and response at all MPA sites, including vessel response and coordination with Marin County Sheriff and CDFW game wardens.
- NPS rocky intertidal monitoring at the Duxbury Reef SMCA as well as additional reference sites throughout the park
- NPS and Partner Rocky Intertidal habitat mapping for oil spill response and climate change tracking.
- Ashy Storm-Petrel Monitoring at the Double Point/Stormy Stack Special Closure
- Logistical support for USFWS Seabird Monitoring at five of the seven MPAs.
- \$250,000 in funding to match OPC funded ROV fish and invertebrate surveys at the Point Reyes Headlands SMR (via UCSD).
- Funding to supplement and support seafloor habitat mapping between Tomales Point and Duxbury Reef to support the MPA stakeholder working groups and science teams (via Moss Landing Marine Lab).
- Funding supporting UC Davis research developing MPA larval dispersal models (Botsford Lab) in the Point Reyes region used by the MPA Science advisory Team.
- Endangered Black Abalone Restoration research (with UCSC) at the Point Reyes SMR and Point Reyes Headlands Special Closure.
- Hosting regular joint law enforcement trainings on MPA law, science, policy, and emerging issues.
- Co-development and support for of an MPA Watch program for Marin County that covers all the MPAs.

- Advising on an MPA-intertidal docent program at Duxbury Reef SMCA.
- MPA science, policy, and protection education at NPS visitor centers, interpretive programs and media.

NPS scientists, interpreters, law enforcement and partners regularly work and perform outreach, research and monitoring in these seven State MPAs. Based on our intimate long-term understanding of these areas and to continue support for the NPS Mission and Federal wilderness policies, we respectfully submit our MPA designation recommendations in Table 2 as CDFW and the Commission undergoes the 10-Year MPA review.

Table 2: National Park Service’s State MPA recommendations for MPA 10-year review.

State MPA	NPS Recommendation	Rationale
Drakes Estero SMCA	Convert from SMCA to SMR	2010 designation as SMCA relied on presence of commercial aquaculture operation. DOI authorization of commercial aquaculture ended in 2012, and operations ceased in 2014. Area is now Congressionally Designated Wilderness, \$4m estuary restoration completed in 2017. Recreational take of shellfish appears to be very rare, requires long kayak trips in wilderness area with no cell service and limited emergency response. Increased protections for eelgrass, estuarine biodiversity, and marine wilderness. If converted to an SMR, join with Estero de Limantour into a single SMR for naming and outreach purposes.
Estero de Limantour SMR	No Change/or merge with proposed Drakes Estero SMR	Protection of eelgrass and estuarine biodiversity.
Point Reyes SMR	No Change	Continued protection of marine biodiversity, including Seabirds, Marine Mammals, Black Abalone
Duxbury Reef SMCA	Continue as SMCA or Convert to SMR	NPS staff observe periodic illegal take of invertebrates after 12 years despite SMCA status. Full SMR status would clarify regulations and ease enforcement/education needs. Premier site for intertidal and ocean education in Marin County. NPS and UCSC long-term intertidal monitoring sites.
Point Reyes Headlands Special Closure	No Change	Protection of Seabirds, Marine Mammals, Black Abalone
Point Resistance Rock Special Closure	No Change	Protection of Seabirds. NPS has concerns about boating and kayaking disturbances. However, these are generally due to the public not following existing regulations.
Double Point/Stormy Stack Special Closure	No Change	Protection of Seabirds, Marine Mammals. NPS has concerns about boating and kayaking disturbances. However, these are generally due to the public not following existing regulations. NPS continues to monitor harbor seals outside the special closure for disturbance events.

Please contact NPS Cooperative Ecosystems Studies Unit Science Advisor Ben Becker at ben_becker@nps.gov if you would like any additional supporting information on NPS MPA support activities or our MPA recommendations.

Sincerely,

Anne Altman
Acting Superintendent

ATTACHMENT 3

Attachment 3

Prepared for Submission November 30, 2023 with EAC's Petition re. Drakes Estero

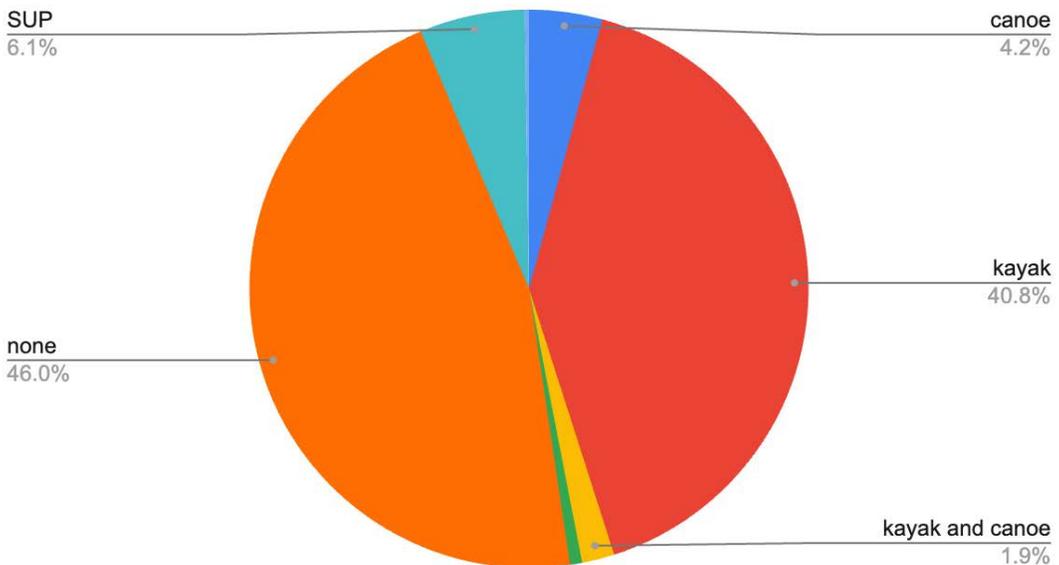
**Summary of MPA Watch Camera Data at Drakes Estero
July 16 - Aug 16, 2022**

Drakes Estero is a destination for harvest and collection by visitors. Environmental Action Committee of West Marin installed wildlife cameras (Plotwatcher Pro) at Drakes Estero as part of the Marin MPA Watch program, in order to assess the usage of the boat launch and activity in the Estero. Between July 16th and August 16th of 2022, camera data was analyzed and recorded, providing counts of boat and recreational usage and are reported here as follows. A number of the boat observations included people bringing buckets and coolers, returning again on consecutive days. Buckets, together with coolers are indicative of use for harvest and collection of marine life, rather than pure recreation. Clamming is currently allowed by MPA regulations in the SMCA, but we are unable to see whether they enter the SMR for clamming and how the people conduct their activities because of the remote setting. Drakes Estero is now a Marine Wilderness, but was not so when the MPA was created.

426 Uses Observed In One Month, July 16 - August 16, 2022:

Kayak	174
Canoe	18
SUP	26
No boat	196
Kayak and Canoe	8
Kayak and SUP	3
Wind Surf	1

Count of Boat Type



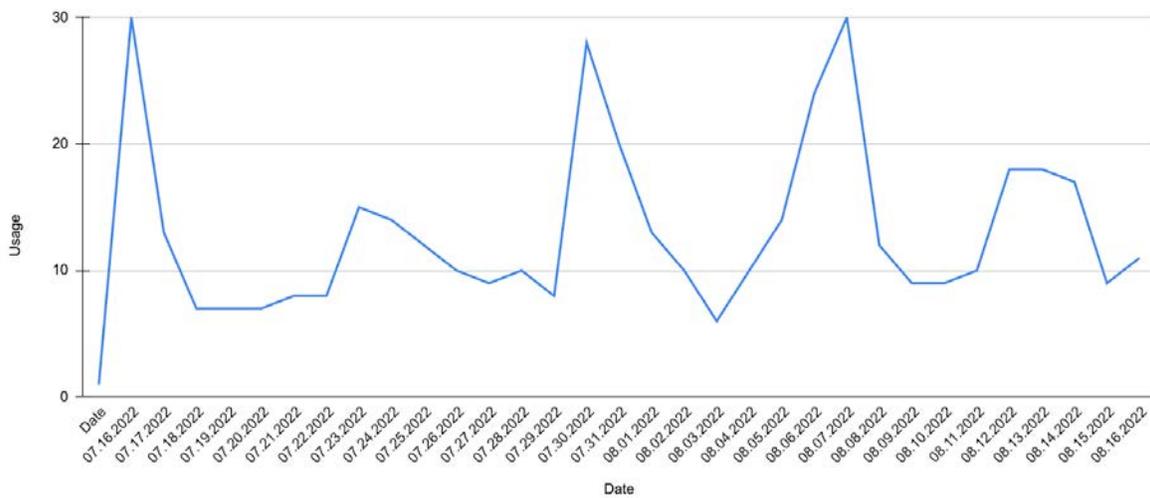
468 Boats Observed Using the Boat Launch In Total:

(some parties leaving and launching are the same on the same day, but each were counted here as distinct observations.)

- 220 launching
- 224 leaving
- 5 N/A

196 Recreation Visitors (not using boats)

Boat Launch Usage Frequency



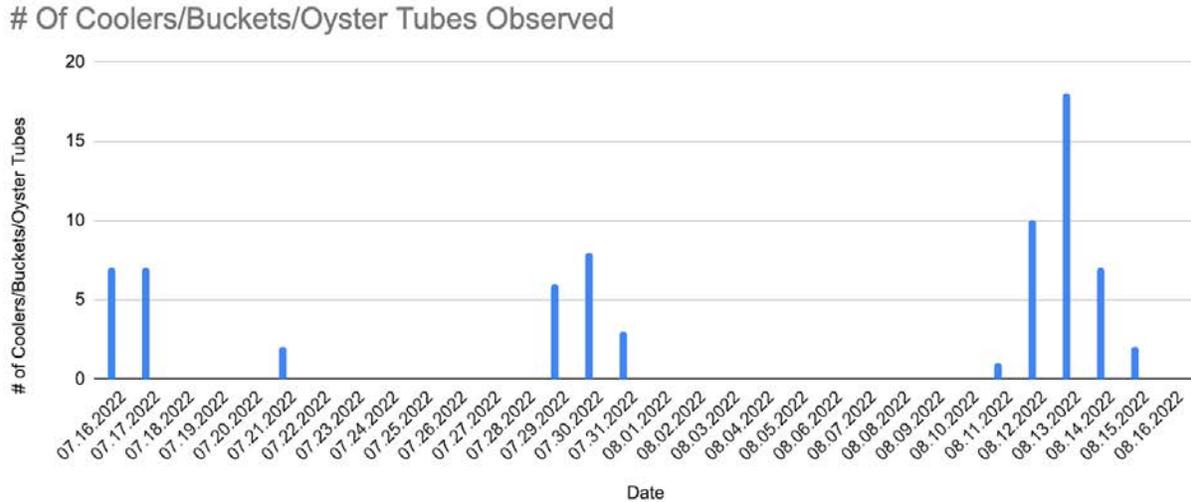
Possible Harvesting occurs in Drakes Estero as evidenced by presence of buckets and coolers. They would be potentially poaching if they harvested in the SMR portion of Drakes Estero or if they harvest anything other than clams in the SMCA.:

44 Boats Observed With Use of Buckets/Coolers/Oyster tubes:

Kayak	23
Kayak and Canoe	18
Canoe	3
None	1

- 35 boats counted leaving the Estero
- 9 counted launching

Roughly 74 buckets/coolers/oyster tubes observed



11 days of potential harvesting observed out of 31 days = 35.5%

23 potential harvesting observations among 426 uses of boat ramp = 5.4%

Multiple of the same groups reported:

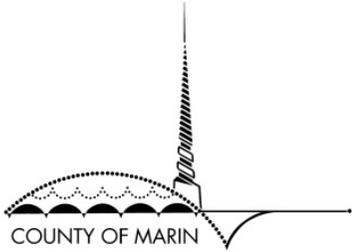
- Multiple occurrences of large white SUV and minivan group with buckets/coolers (raises a question of whether it could be small scale commercial activity)
- Same group of 2/3 green canoes and yellow/blue kayaks
- Two occurrences of possibly small, motored boats

Mostly every two weeks for a couple days in a row, the majority of buckets and coolers were observed during the presence of large groups. These groups usually had 2-4 cars with kayaks and canoes. They appear to be repeated visitations by the same groups, most likely 2-3 different groups with common occurrences of the same boats, cars and gear. Most buckets and activity observed was leaving the boat launch, and frequently the camera never caught the arrival of the cars/boats using these buckets to the boat launch. This implies a very early start, before 6:00 am when the camera is set to begin recording photos each day. Most incidents occurred between 6:00-8:00 am for launches and 10:00 am -1:00 pm for leaving the boat ramp. The scale and pattern of the incidents and the frequency of events in one month appears significant. The Estero had high visitation (426 occurrences of Boat Launch use), and while the percent of possible harvesting in the Estero is low when comparing the overall launch usage, there were 11 days when buckets and coolers were present resulting in a 35.5% frequency of days where potential harvesting is occurring.

Screenshot example of camera data review showing people exiting Drakes Estero with buckets. Captured on July 30, 2022, at Drakes Estero Boat Launch.



ATTACHMENT 4



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San Rafael, CA 94903
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415 473 6172 TTY
DRodoni@marincounty.org
www.marincounty.org/bos

November 21, 2023

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Support for Environmental Action Committee (EAC) Petition to the California Fish and Game Commission for regulation change at Drakes Estero

Dear President Sklar and Commissioner Murray,

I am pleased to extend my support for the Environmental Action Committee of West Marin's Petition to the Fish and Game Commission for a regulation change at Drakes Estero State Marine Conservation Area (Drakes Estero SMCA).

Drakes Estero contains one of the last fully intact wetlands in the state of California and is a biologically rich estuary consisting of extensive eelgrass beds, tidal flats, wetlands, sand bars, and open water that supports a variety of fish, invertebrates, shorebirds, waders, waterfowl, and mammals including harbor seals and river otters.

Currently, in Drakes Estero, it is lawful to harvest clams recreationally. To more effectively protect Drakes Estero's biologically rich marine life for the enjoyment, education, and inspiration of current and future generations, and to minimize the negative impacts of "take" (e.g., harvest, disturbance, and collection) to Drakes Estero's habitat and species, we urge the California Fish and Game Commission to modify the existing SMCA regulation by changing the designation of Drakes Estero from SMCA to State Marine Reserve (SMR) as described in California Code of Regulations (CCR) Title 14 § 632(a)(1)(A), in which no take is allowed.

Drakes Estero SMCA was established in 2010 when a commercial aquaculture operation was in business. As referenced in the National Park Service support letter, the 2010 designation as SMCA relied on the presence of commercial aquaculture operations. Department of Interior authorization of commercial aquaculture ended in 2012, and operations ceased in 2014. Drakes Estero was designated as Marine Wilderness in 2012. Following the Marine Wilderness designation, the Point Reyes National Seashore completed an expensive restoration project in the waters of Drakes Estero.

My office strongly supports efforts to align regulations across jurisdictions to protect resources that align agency enforcement, education, and public safety initiatives for the general public.

My office enthusiastically supports California's Marine Protected Area (MPA) Network and its goals for increasing MPA awareness and understanding, facilitating MPA regulatory compliance, supporting enforcement, and encouraging informed enjoyment and stewardship of MPAs.

Sincerely,

A handwritten signature in black ink, reading "Dennis Rodoni", enclosed in a thin black rectangular border.

Dennis Rodoni
Marin County Supervisor, District 4

ATTACHMENT 5

November 25, 2023

To:

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244
fgc@fgc.ca.gov

From:

Sarah G. Allen, PhD
[REDACTED]
[REDACTED]
[REDACTED]

Re: Decadal Review Recommendations for the California North Central Marine Protected Areas

Dear President Sklar and Honorable Commissioners:

The California Marine Life Protection Act has been a model for other states and countries on how to establish a network of MPAs and provide protection to critical species and ecosystems that are fundamental to the biodiversity and economic health of California. Designation also involves periodic reevaluation and adaptive management of the sites. You are currently reviewing the North Central Coast Marine Protected Areas (MPAs) for the first decadal evaluation, and I wish to comment on and contribute to your review. For 50 years, I have studied marine life in California with an emphasis on marine birds and mammals, and was a scientist on the Scientific Advisory Team with expertise in marine mammals during the initial selection of sites within the North Central Coast Region. Twenty-six of those years, I was employed with the U.S. National Park Service as an ecologist and later as Science Program Lead for the Pacific West Region. During that time, I served on numerous federal/state collaborative committees and working groups, including, but not limited to, representative for the National Park Service on the staff committee for the California Biodiversity Council and for the nascent Parks and Protected Areas working group. While still working with and since retiring from the National Park Service in 2019, I have continued to study marine birds and mammals throughout the region, and am co-author of the University of California Press *Field Guide on Marine Mammals of the Pacific*.

My recommendations based on professional experience and continued study of pinniped and seabird colonies are as follows:

1. **Expand all Special Closure Areas** in the North Central Coast Region from 300 ft. to 1000 ft. to provide better protection for nesting seabirds including at North and Southeast Farallon Islands, Point Reyes Headlands, Point Resistance Rock, Double Point/Stormy Stack, and Egg Rock. From my years of studying nesting seabirds, I have noted that birds may begin reacting to boats as far as 1000 ft. away by head bobbing, and will leave eggs and chicks at shorter distances. Additionally, during surveys over the past several years, I have directly observed fishing boats disturbing nesting seabirds beyond 300 ft. at Double Point/Stormy Stack, and violating the 300 ft. buffer. When disturbing nesting seabirds, boats expose eggs and chicks to predators such as ravens and gulls, and a single disturbance can affect the productivity for an entire nesting season if seabirds do not return.

2. Expand the Duxbury Reef MPA north to include the Double Point/Stormy Stack Special Closure. The marine ecosystems of this area are exceptional as documented in its designation as an Area of Special Biological Significance (see Chan 1979). Double Point is home to one of the largest harbor seal (*Phoca vitulina*) breeding colonies in the state of California and to a significant seabird nesting site on Stormy Stack and the adjacent mainland cliffs. Ashy Storm Petrels (*Hydrobates homochroa*) a species of Conservation Concern in California, nest at this site, one of only a few breeding sites in the state. Black Oystercatchers (*Haematopus bachmani*), also nest there and are designated by the California Audubon Society as a Climate Endangered species because of their vulnerability to sea level rise. Other significant seabirds include >1000 Common Murres (*Uria aalge*), hundreds of cormorants, and tens of Pigeon Guillemots (*Cepphus Columba*), an indicator species of MPA recovery because of their delimited foraging/nesting habitat. Additionally, several hundred Brown Pelicans (*Pelecanus occidentalis*) roost at the site during the year.

Current protections of Stormy Stack and Double Point are insufficient. During surveys over the past several years, I have observed commercial party and recreational fishing boats violating the 300 ft. buffer and also disturbing nesting seabirds even beyond 300 ft. Fishing party boats on occasion produce noise through loud speakers as they circle around the area, which disturbs seabirds and seals at distances greater than 300 ft. By flushing nesting seabirds, boats expose eggs and chicks to predators such as ravens and gulls. One disturbance can affect the productivity for an entire breeding season if seabirds do not return to lay another egg.

3. Expand the Duxbury Reef MPA south to include the southern extension of Duxbury Reef that currently is not protected from people walking over and harvesting invertebrates and algae. There is a small but significant harbor seal colony on the southern extension of the reef that serves as a way station for seals to rest while traveling north to Point Reyes from San Francisco Bay and out to the Farallon Islands (Green et al. 2006). The seals are present consistently year round, and every year several pups occur there.

4. Elevate the expanded Duxbury-Double Point MPA to State Marine Reserve. The sensitivity and biological diversity of both Duxbury Reef and Double Point/Stormy Stack deserve full Marine Reserve status, as described in above points 1-3. Current marine reserves in California protect only approximately 9% of the state waters from harvest. The area has a long scientific history documenting biodiversity and significance, and consequently, is a good candidate for elevating to full reserve status (Chan 1979). Recently, the College of Marin broke ground to rebuild the historical Bolinas Field Station, which will continue and expand on the long history of scientific research about the coastal ecology of the area.

4. Combine Drakes Estero SMCA with the Estero de Limantour State Marine Reserve in order to extend reserve status protection to the middle and upper reaches of Drakes Estero. Drakes and Limantour esteros form a complex of tidal sand bars where harbor seals give birth and rest onshore year round, and is one of the largest concentrations of seals in California (Codde & Allen 2015). Recreational take of clams is the only activity allowed in this SMCA. Currently under this designation, seals are regularly disturbed by recreational clam diggers who come by kayak to dig for clams on the sand bars where the seals haul out. These sandbars are inaccessible to people on foot from the mainland and are only exposed and accessible to the seals during medium to low tides. During the harbor seal pupping season (March 1-June 30), non-motor boat access in the estero is restricted by Point Reyes National Seashore regulations, and restricted to all motor boats year round because Drakes Estero is within federally designated Wilderness. Nevertheless, there is no restriction to non-motor boats after June 30 when seals are hauling out to molt their fur. The molt (June-August) is energetically costly to the seals, requiring longer times to rest

onshore. The National Park Service supported conversion from SMCA to SMR to California Fish and Game Commission in a detailed letter dated November 14, 2022.

5. **Create a Special Closure** of 1000 ft. at Northwest Cape Rocks, north of Fort Ross. These rocks have significant seabird nesting colonies and have one of the few Steller sea lion (*Eumetopias jubatus*) breeding colonies in the state (<https://www.fortross.org/animals/steller-sea-lion>). Steller sea lions were delisted from the federal endangered species list several years ago; however, the California sub-population continues to decline with an estimate of only around 2,000 (NOAA Stock Assessment 2020). The site was proposed for MPA and Special Closure designation when I was an advisor on the Science Advisory Team, but was not included at that time. Since then, the Steller sea lion colony has continued to decline at this location and state-wide.

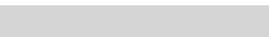
California has been able to rebuild some of the unique and critically significant coastal ecosystems over the past decade through the establishment of an MPA network. Nevertheless, only 16% of state waters are designated as MPAs and there are only 14 Special Closures statewide. The 30x30 California Initiative advocates for 30% of the state be protected by 2030. Increasing the number and areal extent of MPAs in state waters will be a positive action to meet the goals of the initiative and a prudent management strategy to meet the immense challenges from changes in climate that already are harming California's marine resources.

Thank you for your service to protect the exceptional resources of California.

Sincerely,



Sarah G. Allen, PhD
Retired Senior Science Advisor
National Park Service



cc: Ashley Eagle-Gibbs, Environmental Action Committee of West Marin

References

Chan, G. 1979. California Marine Waters Areas of Special Biological Significance Reconnaissance survey reports. Double Point and Duxbury Reef. California State Water Resources Control Board. Water Quality Monitoring Report No. 79-14 and 15.

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ATTACHMENT 6



CALIFORNIA
ACADEMY OF
SCIENCES



Resource Renewal Institute
40 Years. Innovation for a Sustainable Future.



November 29, 2023

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Support for Environmental Action Committee (EAC) Petition to the California Fish and Game Commission for regulation change at Drakes Estero

Dear President Sklar and Commissioner Murray,

The undersigned organizations submit these comments in support of EAC’s petition regarding changes to the regulations for Drakes Estero State Marine Conservation Area (SMCA). The undersigned organizations are committed to coastal protection and the marine protected area (MPA) network.

Drakes Estero contains one of the last fully intact wetlands in the state of California, is a biologically rich estuary that consists of extensive eelgrass beds, tidal flats, wetlands, sand bars, and open water that supports a variety of fish, invertebrates, shorebirds, waders, waterfowl, and mammals including harbor seals and river otters.

Currently, in Drakes Estero, it is lawful to recreationally harvest clams. To more effectively protect Drakes Estero's biologically rich marine life for the enjoyment, education, and inspiration of current and future generations, and to minimize the negative impacts of “take” (e.g., harvest, disturbance, and collection) to Drakes Estero’s habitat and species, we urge the California Fish and Game Commission to modify the existing SMCA regulation by **changing the designation of Drakes Estero from SMCA to State Marine Reserve (SMR)** as described in California Code of Regulations (CCR) Title 14 § 632(a)(1)(A), in which no take is allowed.¹

Drakes Estero SMCA was established in 2010 at a time when a commercial aquaculture operation was in business. As referenced in the National Park Service support letter, the 2010 designation as SMCA relied on the presence of commercial aquaculture operations. Department of Interior authorization of commercial aquaculture ended in 2012, and operations ceased in 2014. Drakes Estero was designated as Marine Wilderness in 2012. Following the Marine Wilderness designation, the Point Reyes National Seashore completed an expensive restoration project in the waters of Drakes Estero.

The SMCA regulations at Drakes Estero allow for the harvest of clams. Currently, recreational take of

¹ Protection of Resources in MPAs and MMAs, as defined in Public Resources Code Section 36710: (A) State Marine Reserves: In a state marine reserve, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a scientific collecting permit issued by the department pursuant to Section 650 or specific authorization from the commission for research, restoration, or monitoring purposes.

shellfish sometimes occurs, though it requires long kayak trips in the wilderness area with no cell service and limited emergency response. Because the commercial aquaculture no longer exists, stronger protection afforded by establishing it as an SMR would align with its pristine condition and its connectivity with adjacent Estero de Limantour SMR and Point Reyes SMR and would protect the highly sensitive estuarine ecosystem, including extensive harbor seal pupping and haul out areas.

We enthusiastically support California’s MPA Network. In the case of Drakes Estero, we assert that strengthened protection is urgently needed to preserve the estuary’s marine life and habitat for future generations.

Sincerely,

Chance Cutrano Director of Programs Resource Renewal Institute	Laura Deehan State Director Environment California Research and Policy Center
Neal Desai Senior Program Director, Pacific Region National Parks Conservation Association	Suzanne Hume Educational Director & Founder CleanEarth4Kids.org
Megan Isadore Executive Director River Otter Ecology Project	Scott D. Sampson, Ph.D. Executive Director California Academy of Sciences
Terri Thomas President Marin Conservation League	Tomas Valadez CA Policy Associate Azul
Robert Vergara Roger Arliner Young (RAY) Ocean Conservation Fellow Natural Resources Defense Council	