

House Natural Resources Committee

April 25, 2018

Testimony of Dr. Laura Alice Watt
Professor, Department of Geography, Environment, and Planning
Graduate Coordinator, Cultural Resources Management Masters Program
Sonoma State University
Member, Resilient Agriculture Group

Good afternoon Chairman Bishop, Ranking Member Grijalva, and Members of the Committee.

Thank you for inviting me to testify before the Natural Resources Committee today about the importance of consistency and accuracy in conducting environmental review under the authority of the National Environmental Policy Act, or NEPA. For the past twelve years I have been a professor at Sonoma State, teaching environmental planning as well as environmental history and policy. Prior to taking this academic post, I spent four years working as an environmental planner for EDAW, Inc., in San Francisco, primarily contracted to write twenty-year Resource Management Plans for several northern California BLM offices, one of which—our RMP for the King Range National Conservation Area—won an award for “NEPA Excellence” from the National Association of Environmental Professionals. Hence I am speaking today about NEPA from my experiences both as a researcher and a practitioner.

And before agreeing to testify, I took several days to consider this invitation, as I am concerned that some members of Congress might be looking for information that could be used to weaken environmental regulations and review—as a life-long Democrat and dedicated environmental studies scholar, I would not want to contribute to such an effort. But I have decided to have faith that good information and insight will benefit environmental planning processes, rather than cause additional problems. So I am here today in the spirit of collaboration, and not as a partisan, to discuss the importance of consistency, accuracy, and fairness in agencies’ application of NEPA.

Specifically, I would like to tell you about a subject to which I have devoted some two decades of academic research and analysis: the history of land management by the National Park Service of the historic, working landscapes at the Point Reyes National Seashore (PRNS) and the Golden Gate National Recreation Area (GGNRA)’s northern district. This work resulted in the 2017 publication by the University of California Press of my book *The Paradox of Preservation:*

Wilderness and Working Landscapes at Point Reyes National Seashore. Earlier this month, I updated my findings, based on developments since my book was published, in a presentation to the annual conference of the Association of American Geographers.

What is now Point Reyes National Seashore has always been a stunning natural environment: A dark evergreen forest covers the spine of Inverness Ridge running up the eastern side of the peninsula, contrasting with the pale greens, golds, and grays of the more open hillsides that tumble down its western side to the ocean's edge. A typical day may bring bright sunshine in the morning, turning to dense fog and howling ocean winds by afternoon. But it has also been a working landscape for centuries. The native Coast Miwok actively managed this landscape through burning and other methods, to maintain open grasslands and encourage the species that rely on them. Since its earliest settlement by non-native residents—first Mexican rancheros in the 1830s, followed by northeastern dairiers in the 1850s—West Marin has been a place of pastoral beauty, an unexpected meeting of the wild Pacific Ocean with wide expanses of green pastures and white victorian ranches. Many of the families working the land have roots that go back four, five, or six generations, stemming from several groups of European immigrants who together form the region's distinctive character.

Congress recognized the significance of this working landscape when it created the Seashore in 1962, with specific provisions to maintain the agricultural land uses within its boundary. Yet since the Seashore's establishment, actions by PRNS officials have consistently eroded the number of working ranches at Point Reyes—from twenty-five on the Point Reyes Peninsula at the time of establishment, to eleven today. On the lands owned by the GGRNA but managed by PRNS, the number of working ranches has dropped from nineteen in 1972 to eight today, with six additional ranch parcels leased for grazing. Based on my field research, this is a result of both agency intention and neglect. Examples, both programmatic and at the individual ranch level, abound, and include:

- Failure (continuing to today) to update the 1980 General Management Plan (despite completing a Draft GMP in 2010 that was never released to the public) to provide an over-arching vision for the Seashore's management;
- Failure to manage and control the (re-introduced) tule elk population so that it does not damage ranch fencing and infrastructure, and threaten the organic certification of many of the ranches; and

- Pushing several permittees to discontinue ranching and accede to the cancellation of their permits, resulting in serious degradation of historic buildings and increases in fire hazard from unmanaged pastures being taken over by invasive brush and weeds.

A substantial part of this erosion of the working landscape has occurred through the inconsistent application of NEPA by PRNS staff. I will describe a few examples, and urge the Committee to refer to the chart below showing inconsistencies over time:

- All ranches shifted from Reservations of Use and Occupancy (RUOs) to agricultural leases or special use permits in the early 1990s (except Kehoe, 10 years later) with no environmental review; documents indicate these changes either being categorically excluded or tiering off 1980 GMP. This makes sense, because there was no change in land use or management, just a continuation of the status quo. Yet when Drakes Bay Oyster Company (DBOC, formerly Johnson's) anticipated shifting from a RUO to a special use permit in 2012, this change was deemed to require an Environmental Impact Statement (EIS), which was completed without a true no-action alternative—in the sense that a no-action alternative should analyze the continuation of present management—and with what the National Academy of Sciences found were serious and material scientific deficiencies.
- Two ranch permits were cancelled in 2000/01 (Horick at D Ranch and Tiscornia at Rancho Baulines), but no environmental review was conducted, despite a major change in land use by removing an operating ranch and allowing, over time, proliferation of non-native vegetation—with dangerously increased risk of wildfire.
- Despite the 1998 Finding of No Significant Impact associated with the Tule Elk Management Plan written that year—which involved relocating nearly 50 animals by helicopter from Tomales Point to the wilderness area near the Limantour Road—in 2008, 2010, and 2013, when ranchers complained about tule elk causing problems on leased ranchlands, NPS claimed the elk could not be relocated without additional environmental review, despite there being functionally no difference between moving animals from Drakes Beach/Home Ranch rather than Tomales Point. (And it's worth noting that in the 2006 Non-Native Deer Removal Plan and EIS, elimination of the non-native deer's economic impacts on the leased ranches was described as a long-term, major beneficial impact.)

- Secretary of the Interior Ken Salazar prompted the NPS to issue 20-year permits to the ranchers in November 2012, yet a year later PRNS announced that a Ranch Comprehensive Management Plan, with associated NEPA review, would be required first, despite the fact that only the length of the permits would change.

Chart of Major Planning Efforts at Point Reyes National Seashore, 1990-present

<i>PRNS action</i>	<i>Land use change?</i>	<i>NEPA review?</i>	<i>Form of review</i>
Ranches transferring from Rights of Use and Occupancy (RUOs) to leases or permits, early 1990s	None	No	None
1998 Proposed expansion of Johnson's Oyster Co.	Yes, new buildings	Yes	EA and Finding of No Significant Impact (FONSI)
1998 Tule Elk Management Plan	Yes, relocation of elk to Limantour	Yes	EA and FONSI
2000 Evictions of Horick Ranch and Rancho Baulines	Yes, removal of ranching	No	None
2004 Fire Management Plan	Yes, increased fuels reduction	Yes	EIS
2006 Non-Native Deer Management Plan	Yes, removal of non-native deer by sharpshooters	Yes	EIS
2007 Giacomini Wetlands Restoration Plan	Yes, conversion of former ranch land to tidal wetlands	Yes	EIS
2008 Closure of rock quarries and fill from wetland dredging	Yes, and 2007 Restoration Plan specified a separate environmental review would be conducted	No	None
2009 Coastal Dunes Restoration	Yes, removal of non-native vegetation and dune restoration	Yes	EA and FONSI
Oyster farm transferring from RUO to permit (same process as ranches earlier), late 2000s	None	Yes	EIS, although never finalized, and permit was denied
2013 proposed re-issuance of existing ranching permits, with 20-year term	None	Yes	Ranch Comprehensive Management Plan and EIS (not completed)
2017 removal of oyster racks and piers from Drakes Estero	Yes	No	None

As the chart shows, since 2000, NEPA review has consistently been applied to agricultural lands in cases where no land use change would occur, merely a continuation of existing use, and has *not* been conducted for instances of removing agricultural or maricultural use. These are concrete examples of an agency applying NEPA inconsistently when it sees fit, apparently on the basis of whether it likes a particular program or project.

The most recent example to come to light, just a few weeks ago, is the fact that PRNS had completed a full Draft GMP/EIS in 2009, that it never released to the public. Park officials have been quoted as saying that the DBOC EIS meant that park staff did not have time to work on the Draft GMP, yet PRNS completed several large planning efforts—including the 1998 Elk Management Plan, the 2006 Non-Native Deer Management Plan, the 2007 Giacomini Wetlands Restoration Plan, a fire management plan, and a trails inventory—during the same time they were working on the Draft GMP. Furthermore, the Draft GMP was already completed, or very nearly so, when PRNS began work on the DBOC EIS.

And it was this lack of a completed GMP that was targeted in the most recent lawsuit: In 2016, the Arizona-based Center for Biological Diversity (CBD) and two other groups filed suit and even brought a motion for a preliminary injunction to stop PRNS from renewing any permits for ranching at Point Reyes. CBD has long made clear its commitment to eliminating the working ranches from Point Reyes so it can be re-cast as a wilderness and preserve for the reintroduced tule elk. And, earlier this month, the Executive Director for the Idaho-based Western Watersheds Project, one of the other plaintiffs in the lawsuit, penned an op-ed in the San Francisco Chronicle calling for the elimination of ranching from Point Reyes, for the same reasons:

<https://www.sfgate.com/opinion/article/Cattle-grazing-on-Point-Reyes-public-lands-is-12815606.php>

As I wrote on the last page of my 2017 book: “[W]hen absolutist environmental organizations sling lawsuits at the NPS that explicitly aim to end ranching at Point Reyes, they are bringing the legal equivalent of the rifles and threats of the Bundy militants to the local community.”

This suit resulted in a Settlement Agreement, whereby the NPS committed to study at least three alternatives for ranching, all of which result in the further reduction or elimination of ranching. Moreover, the Settlement Agreement gives PRNS until July 2021 to complete the process for this required General Management Plan Amendment (GMPA) and associated Environmental Impact Statement (EIS). While the Settlement Agreement was inked in July 2017, and initial scoping meetings were held and public comment solicited in November 2017, PRNS has yet to issue a Notice

of Intent to formally begin preparation of the GMPA/EIS—which usually occurs *before* scoping begins, not after. As someone who has conducted federal public land management planning and associated NEPA review myself, it’s difficult to understand what purpose delaying the Notice of Intent serves, and more importantly, why it would take four years to complete a GMP Amendment and EIS process, covering only a limited portion of the Seashore; in contrast, writing the full Resource Management Plan for the King Range NCA—an area of roughly the same size with very similar management issues to Point Reyes—took just a little over two years from start to finish.

These inconsistencies in NEPA and land management planning processes are troubling. Congress created the Point Reyes National Seashore, and so Congress ultimately bears responsibility for the decisions that are made there. If Congress cares about the future of this working landscape, it should provide clear direction regarding its intended purposes. When working to write the King Range NCA’s management plan, both the BLM staff and my team as consultants took guidance from the law establishing the Area, which gave clear, unambiguous direction. In the case of Point Reyes, the 1962 Enabling Act also contained clear Congressional intent to retain the working ranches within the Seashore’s boundary. However, when NPS was granted full condemnation authority in the 1970 legislation, along with raising the land acquisition appropriation, the specific attention to agricultural lands was removed in the process. While Congress put in place a process for the ranching families to shift from RUOs to leases or permits with its 1978 legislation, it did not reaffirm its expressed intention that the working ranches remain indefinitely. Restating this intention now in the Seashore’s enabling legislation would not only help avoid further lawsuits, but would provide useful benchmarks for what is a reasonable range of alternatives to consider for NEPA review in the current GMPA/EIS process. Prompt passage of a narrowly tailored purposes amendment that preserves the historical and cultural uses of ranches and dairies at Point Reyes would finally provide the certainty and security of tenure necessary for these wonderful examples of sustainable agriculture to continue.

In closing, I want to strongly advocate for the importance of environmental review, as it is often the only moment where we stop and, at very least, *consider* the impacts of our actions on the human and non-human worlds around us—and yet I also want to advocate for the need for consistency in application of that review. It cannot scrutinize at one level here, and an entirely different one there. Its rigor—indeed, whether it is done at all—cannot merely turn on whether the lead agency “likes” a project.

Furthermore, in my book, I suggest that an environmental thinker who deserves more attention in park management is Aldo Leopold, who in his pioneering advocacy for wilderness protection also

wrote of the importance of re-establishing a personal and cooperative relationship with the natural world through working the land. For Leopold, visiting and admiring is not enough; we need to recognize our reliance on and co-existence with the wild through living and working with it. I do not want to romanticize “the local,” but I also believe that communities who are directly affected by a federal action, be it a project or a plan, should have some *specific* input into how that project or plan takes shape—not better than, or above, or before other public comment, but simply as a different category of input. NEPA aims to consider impacts on the *human* environment, but too often the near-scale of human involvement is sacrificed to the broader scales of national implications—whether in regard to maximizing GDP or industrial profit on the one hand, or an idealization of environmental purity on the other.

Point Reyes has long been ideally suited to be managed as a Leopoldian park, a place where the wild and the pastoral are not in competition but are complementary, thriving side by side. The NPS itself is beginning to understand this relationship, with some of its leaders calling for a greater focus on integrated stewardship, as well as “deepening public engagement and establishing ever-more-meaningful connections” between parks and the communities they serve. Geographer David Lowenthal has advised the agency that parks and wilderness areas “must begin to exemplify, rather than be set apart from, the everyday terrain of our ordinary places of work and play, travel and repose.” Numerous examples of successful management of working landscapes within national parks can be found elsewhere around the globe. By building on the insight of Aldo Leopold, recognizing that the wild and the pastoral can not only coexist but also strengthen each other, Point Reyes could be a powerful model of this evolving stewardship approach.