

Citizen's Forum

Considering the complete history of 'wilderness' at Drakes Estero

By Laura Watt

There is a long history of disagreement over the meaning of wilderness; this is not a unique circumstance to the Drakes Estero conundrum. So to suggest that the meaning and intent of wilderness is clear and unambiguous here, regardless of which "side" one is on, can only result from a selective (or cherry-picking) view of the history. I first got involved with this debate, back in 2007, because it seemed that the pro-wilderness side was doing just that: looking at a few sentences in isolation without considering the broader record. It is that cherry-picking tendency that sharing my research here is intended to address.

Carolyn Longstreth pointed out last week that the 1964 Wilderness Act prohibits commercial enterprises within wilderness areas – but Drakes Estero isn't wilderness, it's potential wilderness, managed as wilderness but with the oyster farm expressly allowed to remain as a non-conforming use. No one has proposed removing the "potential" status, so, like the High Sierra Camps located within potential wilderness areas of Yosemite National Park, there is no current conflict between the structures, or the use, and the designation.

It is bit ironic that Longstreth quoted the then-NPS Director from his 1976 testimony about temporary uses in wilderness, because that testimony was given to argue against designating Drakes Estero as potential wilderness. Given that the oyster farm had been a fixture of the Estero for more than 50 years at that point, it was impossible to see it as "temporary," and that was part of the NPS's reasoning for why that area shouldn't be included in any designation at all. It does not follow that, because Congress ignored the NPS's argument and went ahead with the potential wilderness designation, that somehow the oyster farm is required to "become temporary." (And there's really no way of conceiving of a now 80-year use as temporary!)

Longstreth also quotes from House Report 94-1680 (which was actually written before passage of the bill, not after as she states), which included a single sentence that refers to the "efforts to steadily con-

tinue to remove all obstacles" to eventual wilderness conversion. In contrast, there are numerous sentences and statements elsewhere in the legislative record, as I discussed in my last guest column, clearly stating an intention to allow the oyster farm to remain – and there is absolutely no reference, anywhere, to allowing it to remain only until the reservation of use (RUO) expires. To suggest that it is "plain" that everyone meant "only until the RUO expires in 2012" is to put words in their mouths – and three of the legislators in question have recently assured the Interior Secretary that no such intention existed. How can Congress, written generically, have that intention if the sponsoring Congressional representatives did not?

And there is no requirement to convert potential wilderness to "full" with any particular speed. Even taking that single sentence literally, it still says nothing about the pace of removal, other than to say "steadily." Considering that the following sentence in the same document directs the Park Service to remove the utility lines in the Muddy Hollow corridor "as promptly as possible," it becomes clear that these are relative terms; it took the NPS 23 years, from 1976 to 1999, to accomplish that first assigned task. To remain on a steady pace, literally, the NPS has at least until 2022 to make the next change – and probably longer, since 23 years was "as promptly as possible." And as the State of California still retains reserved rights in the Estero, confirmed by a letter from the Department of Fish and Game this past week, the oyster farm is not the only remaining obstacle to full wilderness designation.

It is important to remember that the 1976 wilderness bill was the first Congressional use of the potential wilderness designation, so to suggest that it had a well-understood, unambiguous meaning at the time is reading today's values into the record. A second legislative report that accompanied the bill, this one from the Senate, made clear that many legislators were in fact uncomfortable with the designation: "The [Senate] Committee's retention of the potential wilderness provisions contained in the House passed measure should not be construed to be an advocacy of this classification by the Committee. Although the Committee understands the Department's rationale for this legislative classification, the Committee reserves the right to question this procedure at future wilderness hearings."

Similarly, there is no clear consistent policy within the NPS today on conversion of potential wilderness to "full"; for example, the 1980 Yosemite General Management Plan stated, "The Ostrander ski hut and the High Sierra camps will be reclassified as potential additions to wilderness. They will continue to be available for public use." Just five years ago, an NPS official testified before Congress that Southern California Edison could continue its use of a check dam for hydroelectric power within proposed potential wilderness in Sequoia-Kings Canyon "as long as it wants," with no hints toward its steady or eventual removal on any time frame.

Reading through the 1976 wilderness hearings, it appears that the primary intention of insisting on potential wilderness status was to keep motorized vehicles out of the Estero. The Sierra Club's representative testified, "The possibility of jeeps and motorcycles having access to the Estero shore and adjoining area is a frightening one." Similarly, a letter from the Marin Conservation League specified, "MCL strongly urges inclusion in Wilderness of the quarter-mile strip of tidelands and Drake's Estero. The fragile and important estero must have protection from recreational motor boats. The beaches must be protected from off-shore vehicles. We recommend controlled burns in the Bishop pines forest and Douglas fir forest and we do not object to the non-conforming use of the Johnson Oyster Co. operation in Drake's Estero."

Furthermore, if one is to take the language from the 1964 Wilderness Act literally regarding no commercial enterprises being allowed to enter or use wilderness, then all commercial pack trips, kayak guides, or photography workshops should

be banned as well – these are all instances of one party commercially profiting from a use of wilderness. In addition, the cameras themselves should be left at the wilderness boundary, as the law bars any mechanical uses in wilderness; this is why mountain bikes are not allowed. One could argue that hiking, sight-seeing, and photography are passive rather than direct uses of the resource, but the wilderness law does not make this distinction; and, what could be a more direct use than walking through a wilderness area and setting up camp for the night? As a society we tend to exempt recreational or tourist uses of places from the meaning of "use," but they are uses, and are not free of impact; the Wilderness Act states that the "imprint of man's work should be substantially unnoticeable," yet trails are constructed and maintained by people for their own use, and are clearly noticeable across an open landscape.

We will not solve the great debates over wilderness here at Point Reyes – and the decision about continuing the oyster farm does not represent a crucial precedent in the management of wilderness. While my book manuscript is not yet complete, I'm happy to share my research with whomever would like to examine the historic record more closely for themselves, so that they can reach their own conclusions about what it means. But we cannot take individual sentences or words from that record, and take them literally, without considering the entire historic record.

Laura Watt is an associate professor of environmental studies and planning at Sonoma State University, specializing in environmental policy.

Herd Out West

By Larken Bradley

Couldn't help but hear:

"I don't know if I liked it or if I want to slit my wrist. I could go either way."

—Moviegoer leaving a screening at the Mill Valley Film Festival last week to a friend waiting in line.

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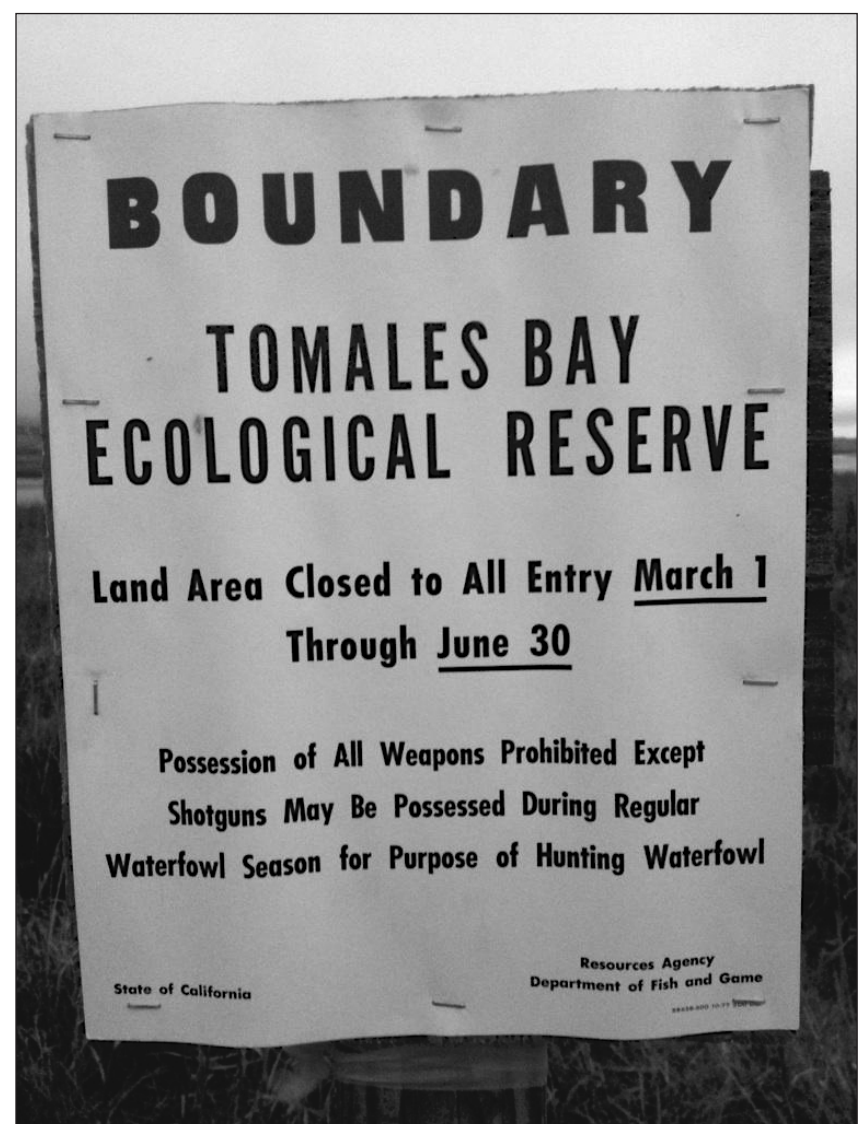
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