

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



Th10b

September 7, 2022

TO: Coastal Commissioners and Interested Parties

FROM: John Ainsworth, Executive Director
Cassidy Teufel, EORFC Manager

SUBJECT: Addendum to Staff Report for Consistency Determination No.
CD-0006-20, National Park Service

This addendum provides additions and revisions to the August 19, 2022, staff report as well as responses to comments received.

I. CHANGES TO STAFF REPORT

The following are revisions to the text of the staff report and recommendation. Proposed deletions are marked with ~~striketrough~~ text and additions are marked with underlined text.

a) Revised text at the bottom of page 2:

The Strategy addresses, partially or fully, all ~~but one of the~~ eight key elements summarized above and is a significant improvement over the version that was prepared by NPS in advance of the April 7, 2022, Commission hearing. The one element that was initially is missing from the plan, ~~Element 6~~ Element 5 (a commitment to updating the strategy and timeline on an annual basis based on data and analysis from the previous year), is addressed through a letter dated September 2, 2022, to the Commission from NPS that affirms NPS' commitment to annual updates to both the Strategy and timeline. ~~appears to be one that could be addressed fairly easily by NPS and may simply have been an oversight.~~ Of the other seven elements of Condition I, most are fully satisfied by the Strategy. The exception is that one of the items the Commission called for to be included in the annual report - water quality monitoring results from all previous years – is not specifically addressed in the Strategy. This issue is also addressed in NPS' September 2, 2022 letter. In it NPS commits to including all previous year monitoring results in its annual reports. ~~and s~~Some aspects of the guidance and requests made by the Commission during its April 7, 2022, hearing also appear not to have been integrated into the Strategy. Commission staff encourages NPS to resolve these omissions through the annual reports it will be developing and

providing the Executive Director and through future versions of the Strategy.

- b) Additional text on the bottom of page 9:

Federated Indians of Graton Rancheria

On August 30, 2022, Commission staff sent a letter to the Federated Indians of Graton Rancheria informing them of the Commission's pending consideration of the NPS' the Water Quality Strategy and inviting them to provide feedback or comments on it. On September 1, 2022, Commission staff met with the Tribe to discuss the Water Quality Strategy, staff recommendation and September 8, 2022, hearing. The Tribe noted its interest in participating in the hearing to provide input to the Commission at that time.

- c) Revised text at the bottom of page 16 and top of page 17:

Element 5:

A commitment to updating the strategy and timeline on an annual basis based on data and analysis from the previous year.

The Strategy ~~does not~~ includes a commitment to an annual update cycle of the Strategy and timeline. ~~However, it does~~ and acknowledges that NPS will be engaged in an ongoing effort of evaluating the Strategy and updating it if water quality improvements are not occurring. Specifically, page 12 of the Strategy notes that:

...

However, in discussions between NPS and Commission staff during NPS' development of the Strategy, it was clear that both agencies expected the Strategy to be a "living document" that would be periodically updated over time. The process of reviewing the annual reports provided to the Executive Director and ongoing coordination efforts with NPS staff would likely provide Commission staff the ability to request updates to the Strategy and timeline if data indicates that its effectiveness is falling short of expectations. That said, Condition I is quite specific in the frequency and method to be used for these updates - annually and based on data and analysis from the previous year - and the Strategy does not include a commitment to do either.

In a letter to Commission staff dated, September 2, 2022, NPS confirms its commitment to providing annual updates to both the Strategy and its timeline.

~~Commission staff expects that NPS would be willing and able to address this deficiency in the Strategy but in the version submitted for review, it remains unresolved.~~

Conclusion

Requirement ~~not~~ met.

- d) Revised text on the bottom of page 18 and top of page 19:

As such, Commission staff would recommend that simultaneous to NPS' efforts to cultivate and continue its partnership with EAC, it also pursue alternative funding sources or other contingency measures that could be quickly enacted to ensure that recreational beach sampling continues uninterrupted if the partnership is discontinued. This may also further the first part of objective four within the Strategy, to "continue long-term, regulatory, and beach recreational water quality monitoring..." In a letter to Commission staff dated September 2, 2022, NPS affirmed its commitment to implement all aspects of the Strategy and described additional funding it had recently secured to assist in that effort. In its letter, NPS also clarified that it "took on the water quality monitoring costs beginning in November 2021 and has continued to partner with EAC on the sample collection and lab delivery as part of the Recreational Beach Monitoring Program. The NPS understands that priorities of EAC may change and commits to maintaining the program either in partnership with EAC or independently."

~~Despite this potential shortcoming, however, the~~ The proposed sampling program meets the requirement of this provision of Condition I for the Strategy to include "a sampling methodology for collecting quantitative water quality data in areas of the GMPA outside of the Tomales Bay watershed."

- e) Revised text on the top of page 20:

However, as described in the Strategy, each annual report would focus primarily on the year ending on December 31 and may not include "water quality monitoring results from all previous years," as specified in Condition I. Because the results of monitoring carried out in previous years can allow for comparisons to be made to more recent results and thus allow for a deeper evaluation of the effectiveness of corrective actions and management measures, it would be important for the water quality and assessment report portion of the annual report to include these comprehensive monitoring results (at least in the first submitted annual report since subsequent reports could simply expand on that data set). Commission staff recommends that NPS include all prior year monitoring results in the annual report to be submitted by December 31, 2022. In its letter to Commission staff dated September 2, 2022, NPS clarifies its intention and commitment to provide all previous year monitoring results in its Annual Reports, "Element 7 of the Staff Report suggests the Strategy may not incorporate all previous years of water quality data into the Annual Report. Element 3 of the Strategy intended to articulate how the data would be used for analysis, but the NPS can and will incorporate previous years' data into the annual report."

- f) Additional text to the bottom of page 24:

E. VIOLATION FINDING

Staff has received reports of various apparent violations of the Coastal Act on ranches located on leased lands within the Point Reyes National Seashore and

has opened investigations into the allegations. However, the present review does not include consideration of enforcement issues, which are subject to different rules and procedures and are not included in the issues before the Commission at this hearing. Although development has allegedly occurred without benefit of a CDP, the decisions made in the hearing on the Water Quality Plan are based solely upon an evaluation of the Park Service's submittal for consistency with the requirements established in Condition 1 from the Commission's April 2021 conditional concurrence (as described in more detail in the staff report). Commission review and action on this submittal does not resolve the violation allegations or constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of any development undertaken on the subject site without a coastal permit, or of any other development.

II. RESPONSE TO COMMENTS

On September 2, 2022, NPS submitted a letter to the Commission in response to the August 19, 2022, staff report and recommendation. This letter is included in the correspondence file posted to the Commission's online agenda. In the letter, NPS confirms its commitment to updating the Strategy on an annual basis,

Specific to Element 5 discussed in the Staff Report, the NPS is committed to updating the Strategy and Timeline on an annual basis based on assessment and monitoring information. As discussed in the Strategy, the approach is iterative, and will continue to be updated based on a range of information inputs, including but certainly not limited to inspections and monitoring results. The basis of the Strategy is that it will be adapted based on information; as Management Activities are implemented, assessment and monitoring will be used to identify new priorities. Annual adaptation and updates are a tenant of this Strategy as it has been developed and articulated and the NPS is committed to update the Strategy and working timelines annually as part of the Annual Report.

With this confirmed commitment, the Commission staff recommended findings are revised, as detailed above.

In its letter, NPS also affirms its commitment to providing continuous funding for implementation of the Strategy, clarifies that it is currently funding the Recreational Beach Monitoring Program and commits to providing all previous year monitoring results in its annual reports. Changes to the staff recommended findings are made to reflect these commitments and clarifications from NPS' September 2, 2022, letter, as detailed above.

The Commission received over 18,000 other letters and emails on this item. The vast majority of comments (over 17,800) expressed deep concern over the adverse impacts of ranching activity on the natural resources of Point Reyes National Seashore (PRNS) generally and requested that the Commission "retract" its conditional concurrence.

While the Commission greatly appreciates the effort of all those who provided

comments and respects the passion and strong coastal resource protection interests they convey, these comments are outside the scope of the current proceeding because they do not concern the adequacy of the National Park Service's revised Water Quality Strategy (Strategy). As described in the staff report, this proceeding is not a re-hearing of the Commission's April 22, 2021, conditional concurrence decision. The purpose of the current proceeding is for the Commission to evaluate the adequacy of the Park Service's revised Strategy with respect to the requirements of Condition I of the Commission's conditional concurrence.

The Commission received several emails and letters directly addressing the Strategy and its fulfillment of Condition I. While these individual pieces of correspondence cover a range of topics and perspectives, there are several common themes and comments among them. These are paraphrased and discussed below.

“NPS’ Water Quality Strategy should include a defined objective and milestones for achieving it.”

While a clear quantifiable objective—such as a lack of exceedances of water quality standards or a percentage improvement each year—would improve NPS’ Strategy and help guide its evolution over time, Condition I does not include this as an explicit required element of the Strategy or identify that its approval by the Commission should be contingent on the inclusion of quantifiable objectives and milestones. Condition I provides that the primary focus of the Strategy is to assess the effects of ranching best management practices and measures on water quality and develop priorities for measures to reduce ranching impacts on water quality more generally. Condition I also requires that the Strategy include a proposed “overall strategy and timeline for assessing and improving water quality through installation of ranching-related infrastructure and management practices . . .” Although not as rigorous a requirement as some commenters would like, as discussed in the staff recommended findings, the Strategy achieves this requirement (Element 1). Further, as explained in the Strategy, implementation of the Strategy is an iterative process, where annual updates will take place, and the focus in the first-year draft, according to NPS, is information gathering and prioritization of issues to be addressed and resolved. These intentions are reflected in the Strategy through its focus on inspections of ranching operations (both those recently completed and those that will be carried out in the future) and the six-part water quality monitoring program it includes. These efforts will help provide comprehensive and objective information to NPS and the Commission on the scope and magnitude of water quality-related issues within PRNS that can then inform the identification and inclusion of more clearly defined objectives and milestones in future versions of the Strategy. As the Strategy is implemented, currently identified issues are addressed and water quality data analyzed, NPS would be in a better position to include quantifiable objectives and specific timelines.

“The annual reports resulting from implementation of the Strategy and related documents should be posted to NPS’ website.”

Similar to the comment above, this comment suggests a modification to the Strategy that would help improve the Strategy and facilitate its implementation by making water

quality-related information more accessible to the public. However, Condition I does not include a requirement that NPS post annual reports on its web site, and NPS annual reports would be public documents that could be obtained through Public Records Act or Freedom of Information Act requests, albeit not as easily as if the materials were available on the internet. Nevertheless, the comment is a reasonable suggestion and, based on recent discussions with NPS staff, it appears that NPS is interested in meeting the intent of this comment and is currently evaluating options for doing so.

“Retirement of water quality monitoring stations should be done in a manner that does not limit the ability of monitoring to identify emerging issues.”

NPS’ Strategy notes that short-term assessment monitoring stations “may be added or retired over time based on monitoring results.” The presumed intent of this proposed flexibility is to allow NPS to manage its resources and direct them towards areas of most benefit, for example, by eliminating sample stations that show no water quality issues or exceedance of parameters. However, elimination of stations may also limit NPS’ ability to identify and locate the sources of water quality impairments that emerge in the future. For example, retirement of water quality monitoring stations could leave gaps in the coverage of the short-term assessment monitoring program. While the short-term assessment monitoring is only one of the various tools proposed in the Strategy to identify water quality issues (inspections and the other five monitoring programs are among the other tools), it is still an important one that should be managed in a way to maximize its utility. The Strategy establishes that the “monitoring and reporting results of the Short-Term Assessment Monitoring Program will primarily be utilized to make management recommendations and inform future short-term and long-term actions.” To help ensure that this purpose is effectively met, the Commission encourages NPS to identify any addition or retirement of water quality monitoring stations in the Water Quality Assessment and Monitoring Report portion of the Annual Report. Further, to help ensure gaps in the program’s coverage do not occur, this section of the Annual Report should also provide maps of all active monitoring stations and identify them in a way that allows the corresponding monitoring results to be linked.

“Require reductions in animals if existing operational infrastructure fails to meet regulatory water quality standards.”

Several comment letters and emails recommend that the Strategy identify reductions in herd size as a short-term response action for issues that may otherwise require significant capital improvement projects to address. For example, the inspections carried out by Regional Board staff in February of 2022 observed that the capacity of manure management ponds on some dairy operations was not sufficient to handle the amount of waste being generated. The identified solution of increasing the capacity of the ponds may be an expensive and time-consuming effort and therefore may not be implemented quickly. Several commenters therefore noted that until such infrastructure improvements are completed, the number of animals at these operations should be reduced to stay within the capacity of the existing system. While this suggested approach appears to have merit and should be considered by NPS, the

purpose of the Strategy is for NPS to develop appropriate strategies to resolve identified water quality issues. Therefore, Condition I does not identify specific management measures for NPS to implement in response to water quality issues. Instead, the condition requires the Strategy to “be informed by... water quality enhancement efforts that have proven successful elsewhere (e.g., the Olema and Lagunitas Creek watersheds) and should prioritize resolution of the most significant water quality-related issues first, where practicable and as indicated by existing information.” As discussed in the staff report and recommendation for this item, Commission staff’s analysis indicates that these requirements have been met through identification of a variety of management measures and approaches. While not specifically called out as a measure to address the manure management issue raised by some of the commenters, reductions in animal numbers is included as one of NPS’ identified management measures. Commission staff recommends that NPS consider appropriate application of this measure to address all relevant water quality related issues.