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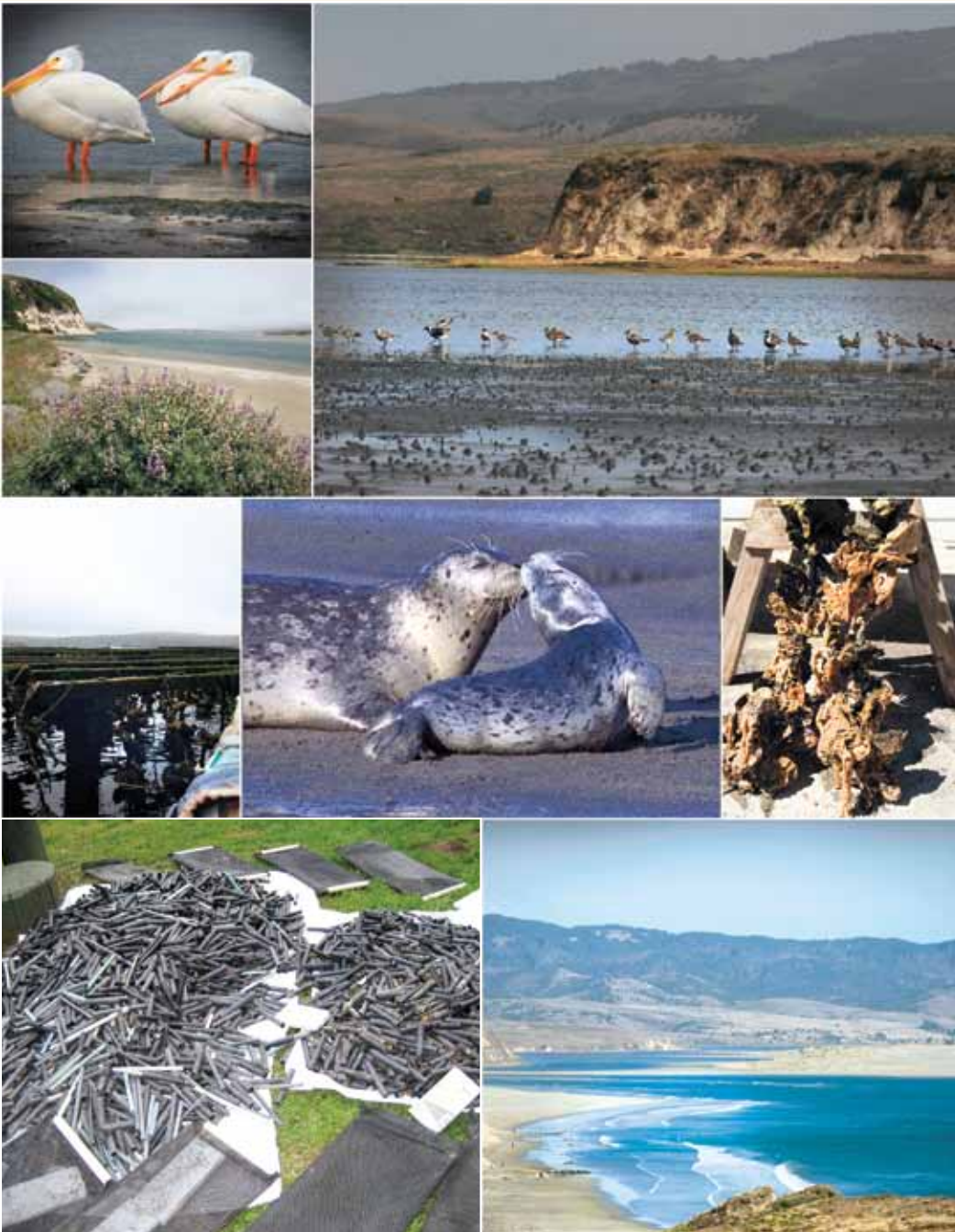
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Photo: David Wippfling

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Photos: Andrea Blum, Terry Nordbye, Sue Van Der Wal, Rudi Dundas Schmidt, Amy Trainer

Support the West Coast's Only Marine Wilderness at Drakes Estero

Drakes Estero, the ecological heart of the Point Reyes National Seashore, is the only federally designated marine wilderness on the West Coast. In 2012, the Interior Secretary will decide whether to extend operating rights to private commercial use of this area or honor the 1976 Congressional commitment that the Estero would revert to wilderness.

The National Academy of Sciences' 2009 report on Drakes Estero stated that, "The decision to extend the lease hinges on the legal interpretation of the legislative mandate rather than on scientific analysis."

EAC agrees with the NAS that the primary focus is the legislative mandate. But there is more. The recently released draft Environmental Impact Statement (EIS) and supporting scientific studies show that this commercial use has adverse impacts, individually and cumulatively, on this marine wilderness area.

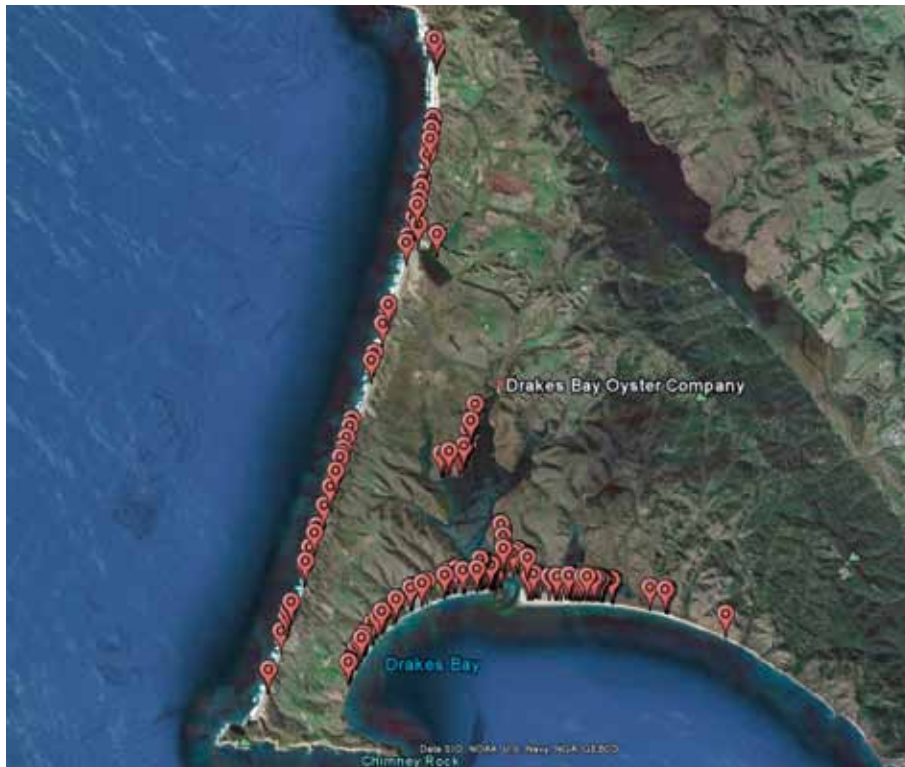
Legislative History and Plain Language of 1976 Legislation Support Wilderness in 2012

The purpose of the 1962 legislation creating the Seashore was "to save and preserve, for the purposes of public recreation, benefit, and

In recent months, local beach walkers have collected thousands of plastic oyster tubes of the type used by Drakes Bay Oyster Company along the Seashore beaches and wilderness areas. Some of the wilderness inhabitants are shown here.

continued on page 2

Map: Tom Bary



Points where oyster company debris was collected over 10 days in July

DRAKES ESTERO continued from page 1

inspiration” a portion of the nation’s diminishing seashore. The legislation further mandated the Secretary of Interior to manage the lands “without impairment of its natural values . . . and supportive of the maximum protection, restoration, and preservation of the natural environment within the area.”

The 1976 Point Reyes Wilderness Act designated portions of the Seashore as a wilderness area and designated the waters upon which Johnson’s Oyster Company then operated as “potential wilderness.” Under the 1964 Wilderness Act a “wilderness” area is a place in which humans would be a visitor, no motorized or commercial uses would be allowed, and where nature could evolve on its own terms without human interference. By designating Drakes Estero as “potential” wilderness due to the non-conforming use of the commercial oyster operation, Congress signified that it would honor the private rights of Johnson’s 1972-2012 40-year Reservation of Use and Occupancy (RUO) until those

rights expired. Absent this commercial, non-conforming use, Congress would have included Drakes Estero in the full wilderness area designation in the 1976 Act.

The House Committee Report on the 1976 Act stated explicitly that “it is the intention that those lands and waters designated as potential wilderness additions will be essentially managed as wilderness, to the extent possible, with efforts to steadily continue to remove all obstacles to the eventual conversion of these lands and waters to wilderness status”. Potential wilderness remains as such until all nonconforming uses are eliminated. Congressman John Burton testified about the importance of protecting Drakes Estero as wilderness due to its “very fragile areas that emanate a lot of sealife and waterfowl and very rare species of clams, et cetera, that they should have that type of protection” just five weeks before the 1976 Wilderness Act passed.

Overtuning the wilderness designation at Drakes Estero in favor of a private, commercial use would

contradict both the 1964 and 1976 Wilderness Acts, and establish a terrible precedent nationwide enabling other private commercial entities to seek political favors and use lobbying pressure and high-powered public relations campaigns to operate in the nation’s wilderness areas.

Draft EIS, Best Available Science Identify Wilderness as “Environmentally Preferable Alternative”

The National Park Service recently released a draft EIS on the proposal to extend the operating rights for the Drakes Bay Oyster Company (DBOC) for ten years to 2022. The draft EIS used the best available science, NPS management policies and Wilderness laws to choose wilderness as the “environmentally preferable alternative.”

When a national park’s legislation expressly calls for management “without impairment” as in the case of the Point Reyes National Seashore, the Park Service has a duty to follow that mandate.

Because the Draft EIS highlights numerous adverse impacts to park resources and wilderness values from ongoing mariculture operations in Drakes Estero, the Park Service has a legal obligation to work toward eliminating the cause of those impacts, here the oyster operation.

The Draft EIS is based on the best available science which shows that commercial mariculture operations cause long-term adverse environmental impacts to wetlands, wildlife, birds, marine mammals, benthic fauna, water quality, soundscapes and wilderness values. The Draft EIS is supported by other federal agency findings. For instance, NOAA’s office of Ocean and Coastal Resource Management

continued on page 7

Executive Director's Report

Support Congresswoman Woolsey's HR 192 to Expand National Marine Sanctuaries Boundaries!

EAC enthusiastically supports Congresswoman Woolsey's HR 192, the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act, and encourages you to do the same. The proposed boundary modification will protect one of the most biologically productive regions in the world, and preserve one of only four coastal upwelling zones on the planet. In addition, HR 192 will create a clean and safe environment for healthy fish stocks to thrive, giving fisherman more catch to harvest, and ensure that this vital area will be protected so it can continue to provide jobs for the coastal economy. Please send support letters to Congresswoman Lynn Woolsey, 1050 North Gate Drive, Suite 354, San Rafael, CA 94903. Visit Woolsey.house.gov for more information.

As I step into my second year as EAC's Executive Director, I continue to be grateful for the opportunity to protect, preserve and advocate on behalf of beloved West Marin. Thanks to you, EAC has pursued its mission to protect West Marin's natural environment and rural character for the past 40 years, and with your generous support we will keep that legacy going!

EAC has been carefully following and engaged in the Local Coastal Program update process this summer and fall, is coordinating the 2012 Birding & Nature Festival, is trying to keep the Outdoor Ed in the Watershed program going, all while continuing to cover the many important land and marine resource issues facing West Marin, including wilderness at Drakes Estero.

I've been told repeatedly that I have one of the more challenging jobs in West Marin, especially given the increasing level of vitriol over protecting and restoring natural areas. I don't disagree. EAC has chosen to emphasize informed, civil discourse rather than engaging in the fray. The loudest voices criticizing EAC and wilderness advocates neglect to mention the national values their position contradicts, namely that national parks—our nation's greatest idea—and wilderness areas are for the people, and commercializing them for private gain is an unacceptable compromise.

I have done my own due diligence on the law, policy, and science. I have read Ian Fein's California Law Review article on the role of the National Research Council and its report on Point Reyes. It supports my impression that the reaction to the Draft EIS exemplifies industry attacking science to undermine a straightforward policy decision. The article highlights a major conclusion of the report that most overlooked: a lack of evidence of adverse ecological impacts does not prove the absence of those effects. By law the National Park Service is mandated to be more concerned with false negatives than false positives – this is the precautionary principle under which the NPS is required to operate and which dictates Wilderness in 2012.

The Park staff is charged with the formidable task of protecting a jewel in the National Park system based on our nation's highest land and natural resource protection standards, all in the face of continuous attacks.

In getting to know the staff and scientists at the Seashore this past year, I have found them to be dedicated, professional and ethical public servants that take seriously their legal duty to protect from harm the Seashore's wildlife and habitats - from the invertebrates to the enigmatic mega-fauna like harbor and elephant seals and tule elk.

I have realized that despite the express purpose and intent of the 1964 Wilderness Act to have Congressional wilderness area designations shielded from politics, wilderness is never truly saved. Like the coast, we are always saving it, as Peter Douglas, retired Coastal Commission Executive Director recently said.

There are appropriate places to grow oysters, like Tomales Bay and Humboldt Bay, but the ecological treasure that is Drakes Estero is not one of them. Let's accept this, work toward healing the battle scars, and request that our state and federal leaders help find jobs for the oyster company workers.

By honoring the foresight of Congress decades ago, we can have it all: a national seashore with vibrant working ranches and the West Coast's only marine wilderness. EAC invites your support for honoring the 1976 Act and its wilderness designation for Drakes Estero.

Thank you to Barry Deutsch and Deutsch Design Works for designing EAC's new logo! EAC has for sale handsome fleece vests and sophisticated hats bearing the fabulous new logo. Stop by the EAC office to get yours today!



Lawson's Landing Dunes Protected!



At its July 13th hearing, the California Coastal Commission heeded the requests of conservation groups and approved a revised permit for Lawson's Landing campground that will ensure that significant portions of the rare coastal dunes-wetlands habitat at the site will be restored and forever protected. EAC has led the charge for over ten years in advocating for the full protection of the Tomales Dunes wetlands complex. Catherine Caufield, former EAC director and the person primarily responsible for this conservation success, is "very pleased" that this exceptional, dynamic ecosystem will now receive the protection and restoration it deserves.

Thanks in part to EAC's advocacy, the Lawsons will receive \$5.5 million from the Natural Resources Conservation Service for placing a conservation easement on 465 acres of the environmentally sensitive habitat. Funding from the conservation easement will help them to construct an adequate septic system, remove invasive European Beach grass and restore wetlands.

The Commission's decision fairly balanced environmental protections and honored the Coastal Act. Much of the development at Lawson's over the past four decades has never complied with land use laws or the Coastal Act. The Commission's decision permits enough camping and RV sites are permitted to allow this family-owned business to continue to provide low-cost recreational activities and coastal access. The decision permanently protects significant California red-legged frog habitat and wetlands will no longer be drained.

After EAC's 13 years of work on this issue, the final Coastal Development Permit:

- allows camping on only 18 acres of sensitive habitat (80% reduction over the County's 1998 approval);
- mandates 100 foot wetland buffers and 50 foot dune scrub buffers;
- requires restoration of the natural wetland hydrology, except for camping areas;
- requires removal of several roads through wetlands;
- eliminates private travel trailers after five years and opens all camping to public access;
- moves the septic leachfield out of sensitive habitat;
- prohibits further sand quarrying;
- restricts cattle grazing in wetlands;
- places 465 acres under a permanent conservation easement;
- requires a Protection, Restoration and Enhancement Plan aimed at restoring and enhancing dunes-wetland habitat by reviving the natural hydrology of wetlands, protecting listed species, preventing spread of invasive species and planting native species to create habitat for endangered Myrtle's silverspot butterflies;
- establishes a traffic plan with standards for traffic flow and safety, providing additional measures if those standards are not met; and
- requires utilities to be placed underground.

EAC is grateful to Marin Audubon Society and Marin Conservation League for their support and exceptionally thankful for Catherine Caufield's tireless commitment to protect this precious ecosystem. EAC will continue to support the Lawson family's commitment to restoring and protecting the unique ecological assets of their property.



Photo: Sarah Lerer

EAC proudly awarded West Marin resident Bernie Stephan the 2011 Jerry Friedman Scholarship to the Environmental Forum of Marin. Congratulations Bernie!

Local Coastal Program Updates

- *The Fine Print Does Matter*
- *Challenging Guy-Wired Towers*
- *Low Flying Aircraft*

The Fine Print Does Matter

County planners are struggling to update the 1981 Local Coastal Program (LCP) which regulates development in the coastal zone of Marin and applies to all private and non-federal public land. Land use – agriculture, construction, housing, grading, land division, and other types of development - must be consistent with the Coastal Act and generally require a coastal permit. The LCP, the county’s agricultural zoning, and land trust conservation easements have been largely

successful in preserving West Marin’s open space, habitat, viewsheds and water quality. However, according to the Coastal Commission’s staff review dated September 15th the County’s proposed revisions to the Agriculture section would weaken protections for ag lands.

In addition, EAC is concerned that proposals to “streamline” coastal permitting processes may threaten the preservation of stream and wetland areas and reduce public participation

and oversight. Also important new issues – wind energy, water resources, intergenerational farm housing, traffic impacts of roadside agricultural sales, and numerous others – deserve careful scrutiny. EAC remains vigilant, continually engages the planning staff, and participates actively in the public LCP hearings to ensure that West Marin’s coastal resources receive the necessary stringent protections.

Challenging Industrial Wind Met Towers

In 2010, the nation’s largest wind turbine company, NextEra, proposed studying wind currents in West Marin for three years to determine the suitability for industrial-scale wind turbines on our coast. NextEra has a history of massive kills of raptors and bats at some of their poorly-sited wind facilities. The Marin County Board of Supervisors approved two 198-foot wind study towers on ridges on the east shore of Tomales Bay, which is a significant area for raptors and songbirds, without any environmental review. The towers would be secured by over 7,000 feet of guy wires that

are dangerous to birds. EAC, Marin Audubon Society, Marin Conservation League and numerous Marin residents requested the County conduct at least a minimal environmental review prior to allowing the towers to be erected in the coastal zone. The county declined, and in January, EAC appealed the approval to the Coastal Commission.

EAC’s appeal of the county decision was based on a letter from local author and noted naturalist Jules Evens which stated that the unique diversity of habitats and high avian species diversity within the area proposed for wind study towers, combined with

coastal fog, wind and abrupt ridgelines, pose unique circumstances requiring site-specific environmental review.

In March, the Coastal Commission upheld EAC’s appeal and halted erection of the guy-wired wind study towers, largely because the county’s approval failed to protect environmentally sensitive habitat areas. EAC is now working to ensure the county’s proposed new energy policy within the updated Local Coastal Program will only allow and promote renewable energy generation at a scale appropriate to protect natural and biological resources.



EAC was honored to have 6th District Assemblymember Jared Huffman speak at its 40th Anniversary Potluck Dinner in June. Huffman impressed EAC members with his unparalleled environmental legislative accomplishments. Thank you Jared!!

Proposal for Low-Flying Aircraft Incompatible with National Parks and Wilderness

EAC's recent comments on the FAA's proposed allowance of over 5,000 annual low-flying commercial tour flights over the GGNRA and the Seashore were based on the premise that our national parks are for everyone's enjoyment, and should not be usurped by private commercial uses, especially uses that disturb wildlife and degrade the experience of over two million annual park visitors.

EAC urges a complete prohibition on low-level helicopter and airplane tours within the immediate airspace of

both national parks, as well as a two mile buffer area surrounding them. EAC demanded a full environmental impact statement be prepared to adequately assess the impacts of the FAA proposal.

Given the increasing number of negative pressures on birds and marine wildlife, EAC strongly believes that an outright prohibition of low overflights is necessary for both human and non-human enjoyment and use of these national treasures.

Second Annual Birding and Nature Festival a Huge Success

EAC hosted the second annual Point Reyes Birding and Nature Festival the weekend of April 29 through May 1, 2011 with 550 bird enthusiasts participating in more than 70 field outings and indoor programs. Many of our top local birders, including Jules Evens, Lisa Hug, David Wimpfheimer and Keith Hansen, led trips. The weather gods smiled upon us and all enjoyed the terrific spring birding, spectacular wildflower displays and tremendous

camaraderie. The two well-attended evening programs received enthusiastic reviews. On Friday, a dessert reception entitled "Birding Around the World" showcased five bird photographers and a videographer who shared exceptional photos with accompanying stories. On Saturday, attendees packed the Dance Palace for Pam Ferrari's excellent curry dinner and outstanding presentation by Alvaro Jaramillo on the affinities between California and

Chile in history, geography, ecosystems and birdlife.

Attendees provided significant support and income to local businesses throughout the weekend of festivities. Many thanks to all who contributed to making the festival a resounding success! Watch the EAC website for information about the 2012 Festival, scheduled for April 27- 29. We hope to see you there!

Photo: Amy Trainer



found that “oysters and clams cultured in Drakes Estero are nonnative species that have some risk of establishing self-sustaining populations.” NOAA found that the “introduction, spread, and propagation of invasive species is a reasonably foreseeable coastal effect,” identifying the invasive tunicate (*Didendum vexillum*) introduced by oyster operations as a serious threat to the current and long-term ecological health of the Estero.

Commercial Oyster Operations Are A Serious Threat to Drakes Estero Habitat and Wildlife

Recently, the California Coastal Commission sent a September 29th letter to Drakes Bay Oyster Company (DBOC) reprimanding its operations and practices that “pose serious threats to marine habitats and wildlife.” The Commission warned that the company’s use of motorized vessels near sensitive harbor seal areas was not allowed and is inconsistent with a Cease and Desist Order that the Commission issued in 2007.

The special use permit allowing commercial operations in the Estero expressly prohibits motorized vessels within protection areas during harbor seal breeding season from March 1 through June 30. The Commission’s letter referred to Park Service photographs showing motorized oyster company boats in off-limits seal protection areas of Drakes Estero “on at least 20 different days during April and May of 2008 and 2009.” A photograph dated April 26, 2011, provides recent evidence that these encroachments continue.

Zero Tolerance = Thousands of Pieces of Plastic?

In its September 29th letter, the Coastal Commission said that the thousands of plastic oyster tubes and other DBOC marine debris “poses a hazard to the marine environment and natural resources of Drakes Estero and needs to be aggressively and comprehensively addressed in the immediate future.” This level of concern is supported by the California Ocean Protection Council’s recent report on “Plastic Debris in the California Marine Ecosystem.”

The Commission acted on a letter received from Inverness resident Tom Baty who reported the thousands of pieces of DBOC oyster debris he has collected on regular beach walks in recent months, as well as photos from EAC Director Amy Trainer and Richard James showing additional plastic debris.

This past July, Mr. Baty took a hand-held GPS unit and mapped the plastic, revealing the location of 726 pieces of DBOC plastic debris at 607 sites he had collected in just 10 days in July. In his August letter to the Coastal Commission, Mr. Baty pointed out that of the thousands of pieces of oyster operation plastic he has collected “much of it is new plastic with smooth, unworn surfaces and fresh saw marks.” Mr. Baty’s letter stated that despite having voiced his concern of this issue at the 2009 Marin County Board of Supervisors hearing on the issue, his regular beach walks have revealed the volume of plastic flowing into our national park wilderness and ocean has continued to increase, not decrease.

For these legal, policy, scientific and other reasons, EAC believes that the Interior Secretary should act to allow Drakes Estero to become the West Coast’s first and only marine wilderness in 2012.



Photo: Jerry Meral

Barb Meral enjoys lunch with a view! EAC worked with the Park Service to have a picnic table placed about an hour’s walk up the Bolinas Ridge trail with a great view of Tomales Bay. An additional picnic table has been placed another few miles beyond that. Enjoy!



Photo: Carolyn Longstreth

EAC Director Amy Trainer and Board Chairwoman Carolyn Longstreth met with Bolinas residents last spring to discuss West Marin issues, including the county’s Local Coastal Program update process, renewable energy proposals for the east shore of Tomales Bay, and Wilderness at Drakes Estero.



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Contact EAC if you would like to be an Education Angel & support the continuation of the Outdoor Ed in the Watershed program.

EAC is seeking education angels to keep Outdoor Ed in the Watershed going for the current school year. Madeline Hope and Leslie Adler-Ivanbrook have created a remarkable hands-on, inter-disciplinary scientific learning program focused on building an understanding of watershed processes and the environmental impacts of human activities on our creeks, the Tomales Bay estuary, and the greater marine environment.

The Environmental Action Committee of West Marin is dedicated to the protection and appreciation of West Marin's natural resources, biological diversity, and rural character. EAC advocates for clean air, pure waters, healthy oceans and ecosystems, and the preservation of wilderness.