NEWS FROM MARIN CONSERVATION LEAGUE

November—December 2011

Climate change: mitigate, adapt—or both?

Most people in Marin understand the fundamentals of climate change. They accept the science of rapidly increasing levels of carbon dioxide (CO_2) and other "greenhouse gases" (GHGs) in the atmosphere, the human causes of these increases, the consequent rise in global average temperature, and the resultant extreme weather patterns, melting of glaciers, and rising sea levels. Most are aware of the need to change light bulbs, insulate their homes and turn down the thermostat, drive hybrid or electric vehicles (or drive less), and invest in renewable energy like wind and solar. Almost everyone has heard of "green jobs" and the "green economy" but may be hard-pressed to pin these down to specifics. But even if a majority of the population were to adopt incremental shifts in behavior—and that is a highly optimistic assumption—the world will need strategies on a larger scale to address climate change, both to *mitigate* the continuing build-up of GHGs, and to *adapt* to the consequences of climate phenomena that are already underway. This article concerns two such strategies that MCL is currently tracking.

In general terms, approaches to climate change fall into three broad classes. *Mitigation* includes an array of strategies to reduce GHG emissions, ranging from improving energy efficiency to capturing and sequestering GHGs like CO_2. *Adaptation* recognizes the need to anticipate and adapt to the effects of climate change that are already being observed, such as the shifting weather cycles and accelerated sea level rise. A third term—*remediation*—is beginning to receive serious research attention as mitigation advances to new technological levels in the pursuit of geoengineering strategies that could actually alter global carbon cycles, with far-reaching consequences.

The two programs discussed below exemplify *mitigation* and *adaptation* responses to climate change. Both are the products of California state agencies, and both have been the source of intense controversy and have their detractors.

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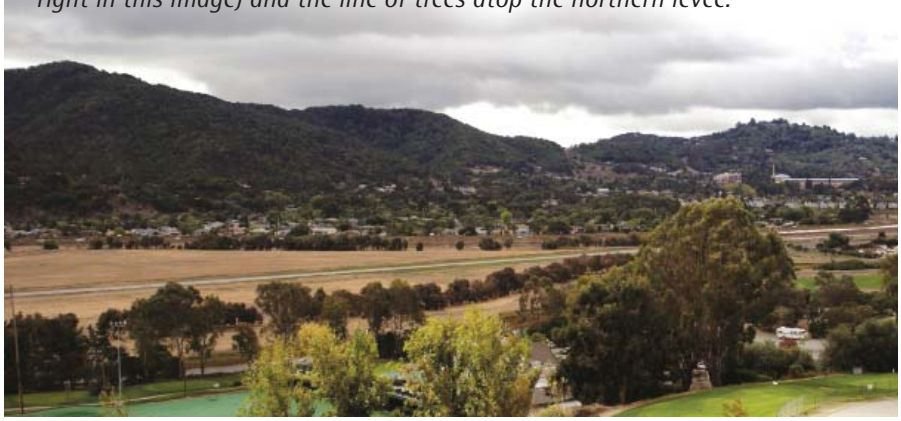
Status Updates

San Rafael Airport sports complex FEIR released

The San Rafael Airport is located off Smith Ranch Road on a spit of land between the north and south forks of Gallinas Creek. The proposed development would lie between the airport runway (shown running left-to-right in this image) and the line of trees atop the northern levee.



Dru Parker

Almost two and a half years have passed since MCL last commented on the Draft Environmental Impact Report (DEIR) for an indoor sports facility proposed for the San Rafael Airport site (May-June, 2009 Newsletter). The project is back in the public arena in the form of a Final EIR. San Rafael Planning Commission will hold a hearing on November 15 on the FEIR and merits of the project. MCL, other environmental organizations, and neighboring residents can be counted on to protest the continuing efforts of the land owner to build this project on an inappropriate site.

The basic project hasn't changed: it consists of an 85,700 square foot building that would house two soccer fields/courts and an area for dance and gymnastics training; a lighted outdoor soccer field for night games; an unlighted soccer warm-up area; an extended roadway; a new bridge; and paved parking for 184 with additional gravel overflow parking. 700 to 1,000 people would be expected on a daily basis.

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A Message from the President

More changes are coming to Marin, some good, some sad. We were delighted to hear that agreement has been reached for Samuel P. Taylor and Tomales Bay State Parks to be kept open by the contiguous National Parks! Tomales will be open four days per week and S.P. Taylor will be open five to seven days per week. These partnerships will continue to allow public access for these two very popular state parks when the state funds for their operation expire next summer. The agreements are not a long term solution to the underfunding of our state parks, but will continue public access to these two parks which the Marin Conservation League was so instrumental in getting into the public domain for preservation.

That leaves China Camp State Park and Olompali State Historic Park still on the closure list in Marin.

The Governor has signed AB 42, Jared Huffman's bill which allows the state to contract with non-profits for operation or partial operation of state parks. That opens up a new realm of possibilities. So stay tuned, more changes are coming!

The other change that is happening is the retirement of 2nd District Supervisor Hal Brown. We have appreciated the opportunity to work with Supervisor Brown on many things over the years. He was always very accessible and willing to discuss issues, whether in his district or of a countywide nature. It must have been a difficult decision to depart from a job which was so important to him that it became a way of life. We wish him continued improvement in his health. With his retirement the open seat on the Board of Supervisors will be filled by Governor Brown. As with the 3rd district appointment this spring, there is a lot of speculation about the potential candidates. There is no one who could be appointed that has anywhere near the depth of experience as the retiring supervisor, but there is a lot of talent in the district. The Governor did a good job for the 3rd district, so the probability is that he will do well for us for the 2nd district.

Susan Stompe

Dru Parker

Samuel P. Taylor State Park (left) and Tomales Bay State Park will remain open several days per week through a partnership between the National Park Service and California State Parks. Popular China Camp State Park (below), however, is still slated for closure due to state budget cuts, as is Olompali State Historic Park.

You're Invited to
MCL's Annual Holiday Party

Friday, December 2nd 4:00—7:00 pm
at the MCL office
1623-A Fifth Ave· (at F St) San Rafael

RSVP at marinconservationleague.org/events or call 415.485.6257

This event is free to all.
We ask that you join us in helping the hungry by bringing non-perishable food or cash donations for the Marin Food Bank

Golden Gate National Recreation Area and Point Reyes National Seashore

News from Marin's Federal Parks

Golden Gate National Recreation Area (GGNRA) is never without plans-in-process. Typically only the controversial ones like the **Dog Management Plan** (MCL Newsletter May-June 2011), attract attention. That Plan and its Environmental Assessment will return, after ample time for public comment and having taken the controversial step of limiting dogs off leash to a few areas of the Park only!

The **America's Cup 34** events in 2012 and 2013, although under the jurisdiction of the City and County of San Francisco, will involve lands and near-shore waters of GGNRA in both Marin and San Francisco. (See Newsletter, September-October 2011). In commenting on both the City of San Francisco's Draft EIR and the Environmental Assessment required by federal law for this event, MCL urged that the lands and waters of the Marin Headlands likely to be visited by thousands of spectators be protected to avoid damage to coastal bluff habitats, wildlife, and the marine life in near-shore waters.

Air Tour Plans

Air Tour Management Plans (ATMPs) are being developed by the Federal Aviation Administration (FAA) in cooperation with GGNRA and Pt. Reyes National Seashore ("Seashore"). MCL recently submitted comments for the required Environmental Assessment (EA). Two operators—San Francisco Helicopter Tours and San Francisco Seaplane Tours—offer commercial sight-seeing air tours over GGNRA, including Alcatraz and Muir Woods, as well as Angel Island and the Coast. (A "commercial air tour operation" is any flight for sightseeing over a national park and half-mile buffer zone, below 5,000 feet above ground level.) In response to growing controversy over intrusive and unsafe low-flying aircraft flights over national parks, Congress passed the National Parks Air Tour Management Act of 2000 (NPATMA), which directed FAA and National Park Service (NPS) to work together to develop Air Tour Management Plans for parks where air tours were occurring. The objective was to mitigate or prevent adverse impacts of air tour operations on natural and cultural resources, visitor experiences, and tribal lands within or abutting national parks such as the GGNRA and the Seashore. After more than 10 years, no ATMP for any national park had been completed. As a consequence, neither the safety of air tour operations nor the opportunity for park visitors to experience the unimpaired sounds of nature has improved.

In the absence of an approved management plan, local tours are currently managed under FAA "interim operating authority" (IOA), which permits the two tour operators to fly a maximum of 2,190 Seaplane Tours and 2,900 Helicopter Tours per year. No air tours are operating over the Seashore at this time, although they are permitted to do so under the IOA. That could change with an ATMP.

Threat to Wildlife. MCL is especially concerned about the potential disruption of sensitive wildlife habitats in the parks from low-flying aircraft such as helicopters. The GGNRA is home to one of the largest concentrations of rare, threatened and endangered species in the national park system, and, along with the Seashore, is part of the United Nations-designated Golden Gate International Biosphere Reserve. Offshore, the Gulf of the Farallones National Marine Sanctuary supports abundant marine life including gray whales, elephant seals, harbor seals, and others. Muir Woods provides a special forest habitat for spotted owls, and Redwood Creek supports the endangered Coho salmon. Pt. Reyes National Seashore is home to over 65 species of mammals and offers breeding habitat for 130 species of birds. Nearly half the bird species of North America have been spotted in the Seashore. The EA should address potential impacts of low-flying aircraft to this abundant wildlife.

Disturbance to visitor experience on the ground. There are other reasons to restrict air tours. Muir Woods offers visitors a quiet and primeval sanctuary. Noise management is central to ensuring this visitor experience. At the Seashore, natural sounds such as ocean waves, bird and other animal calls, flowing water, and wind are part of the visitor experience. Trails throughout the park allow visitors to escape into wilderness, a treasured opportunity enjoyed by millions. Low flying aircraft and the noise they create would destroy this experience on the ground.

Dru Parker

A seaplane on Richardson Bay awaits its next flight.

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Events

Tomales Walk Into History works up a thirst

Walk photos by Tim Rosenfeld; the Pilsner Brigade at Vladimir's by Greg Ziitney

More than 40 people braved foggy morning weather at Tomales Bay State Park for MCL's 9th Walk Into (Conservation) History on August 27. Led by former State Parks Ranger Carlos Porrata (right, on table), hikers traversed the Jepson and Johnstone trails and learned how MCL and others saved the lands around Tomales Bay from development. It was thirsty work!

Coastal Cleanup volunteers bag up over five tons of trash

On September 17th, 79 Marin Conservation League volunteers joined thousands of others across the state for the California Coastal Commission's 27th annual California Coastal Cleanup Day. MCL hosted four sites in Marin: Scottsdale Pond in Novato, Mahon Creek and Starkweather Shoreline Path in San Rafael, and the Sausalito waterfront at Bay Model. All told, volunteers across Marin removed more than 8,800 pounds of trash and 1900 pounds of recyclables from 118 miles of creeks, bays, and beaches.

California Coastal Cleanup Day is part of the International Coastal Cleanup organized by Ocean Conservancy and takes place every year on the third Saturday in September. We hope to see you next year!

The Starkweather Shoreline Path Crew *Ira Chin*

Reducing single-use plastic bags—

One more step toward zero waste

by Bob Brown

Marin is a recognized national leader in waste recycling, reaching a countywide diversion rate of almost 75%. Although recycling rates in Marin have increased significantly over the past two decades, the amount of waste going to the landfill has increased by 30%. Redwood Landfill currently is projected to reach capacity in 2024.

As a result of these trends and challenges, the Marin County Hazardous and Solid Waste Management Joint Powers Agency prepared a Zero Waste Feasibility Study in December 2010 which identified goals of achieving 80% waste diversion by 2012 and 94% diversion by 2025. All Marin jurisdictions are being encouraged to adopt a Model Zero Waste Resolution committing to these reduction goals.

The study identified 28 programs to reduce waste generation. Among them was a program to investigate options for banning non-recyclable single-use items such as plastic bags and polystyrene takeout food containers. Currently two Marin jurisdictions (Fairfax and the County) have adopted regulations banning single-use plastic bags, and four jurisdictions have ordinances that restrict plastic take-out food containers provided by food service establishments (Fairfax, Mill Valley, Sausalito, and the County).

Ordinances banning single-use carryout bags are becoming increasingly popular throughout the world. In California, cities and counties are taking action to ban single-use bags largely because state legislature has failed repeatedly to act due to intense lobbying by the plastics industry. (MCL supported proposed state legislation in 2010.) Save the Plastic Bag Coalition, a group supported by the plastics industry, has filed CEQA lawsuits challenging such ordinances on the grounds that paper bags have greater lifecycle environmental impacts than plastic bags and should not be favored over plastic. For this reason, most of the recent bag ban ordinances in California ban also impose a fee on paper bags to discourage all single-use carryout bags. (Although Marin County's plastic bag ban was recently upheld by a Marin County Superior Court judge, the case is likely to be appealed.)

Dru Parker

Gail Stark of Sausalito shows the reusable grocery bags she keeps in her car at all times.

San Rafael takes the lead

City of San Rafael's Climate Change Action Plan (CCAP, 2009) determined that solid waste disposal was responsible for 14% of the city's greenhouse gas (GHG) emissions, and that reducing waste could achieve over half of the city's GHG reduction goals by 2020. One program contained in the CCAP is to reduce the amount of single-use plastics going to the landfill and fouling our environment.

Rather than focus on how to implement just its own single-use plastics program, the City of San Rafael convened a collaborative public process on behalf of six Marin cities (San Rafael, Novato, Mill Valley, Tiburon, San Anselmo and Sausalito) to develop recommendations for reducing single-use plastics. The resulting Single-Use Plastics Advisory Committee (SUPAC) included local retailers and restaurateurs, the grocery and restaurant industry associations, local government, and several local environmental groups. **Roger Roberts** represented MCL, and **Jon Elam**, MCL board member, participated as local government staff. Over 60 people participated in analysis and group discussions over a six-month period.

An estimated 128 million plastic carryout bags are given to consumers annually in Marin

Some of the major findings of the SUPAC include:

- An estimated 128 million plastic carryout bags are given to consumers annually in Marin—that's 570 disposable bags for every man, woman and child each year.
- Recycling of plastic bags is minimal—less than 9% is reused.
- Garbage ratepayers bear the costs—$536/ton to collect and sort plastics that sell for only $32/ton to recyclers.
- L.A. County found that plastic bags constitute about 25% of debris in storm drains.

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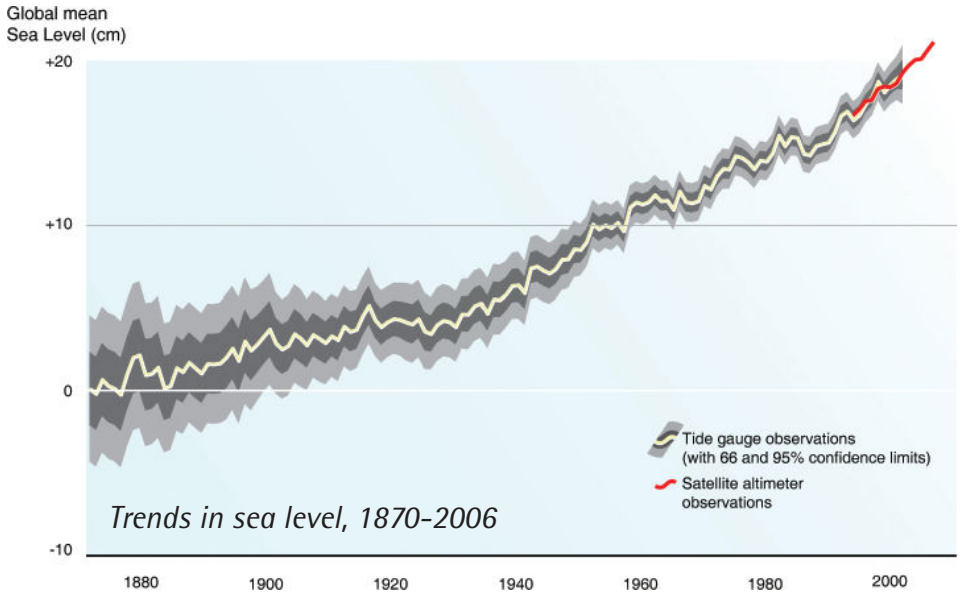
Climate *from Page 1*

Cap and trade—a market approach to mitigation

At the end of October, 2011, the California Air Resources Board (CARB) was expected to finalize the regulations of a market-based program to reduce GHG emissions pursuant to AB 32, the Global Warming Solutions Act of 2006. AB 32 requires California to reduce GHG emissions to 1990 levels by 2020. This amounts to a reduction of about 30 percent in projected emissions compared to a "do nothing" scenario in California over the next 10 years. The market-based *cap and trade* program is expected to achieve about 20 percent of the total reduction in emissions that California will need to achieve to meet its target. The other 80 percent of the reductions will be met through a variety of regulatory and incentive measures.

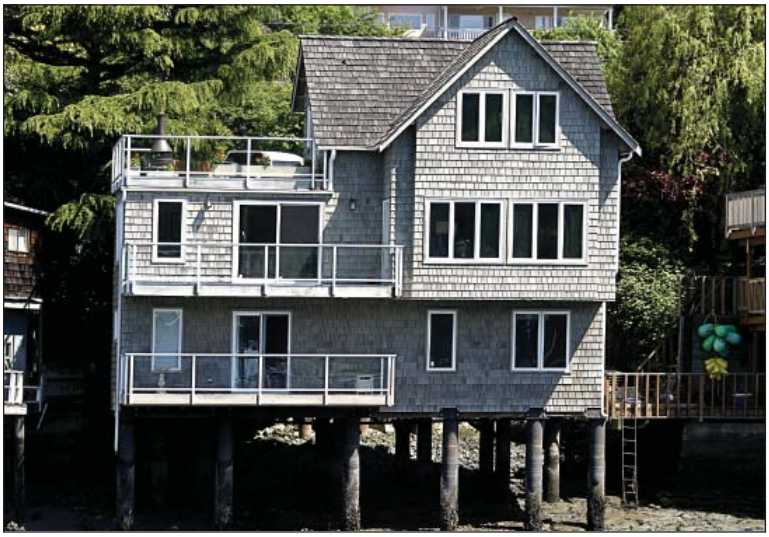
The cap and trade program is based on the simple concept of putting a price on pollutants, in this case CO_2, and setting limits to allowable emissions. By placing a legal limit ("cap") on the quantity of greenhouse gases the economy can emit each year and over time ratcheting down that limit—i.e., tightening the cap—the reduction target can be met with some certainty over time. A similar approach to acid rain has proved highly successful in reducing emissions of sulfur dioxide (SO_2) from power plants. Placing a cap on CO_2 can act as a "backstop" behind other policies such as energy efficiency standards for vehicles and appliances, smart-growth plans, building codes, public transit investments, tax credits for renewable energy, utility regulatory reforms, and other GHG mitigation measures.



Coastal and island tide-gauge data show that sea level rose by just under 20 cm between 1870 and 2001, with an average rise of 1.7 mm per year during the 20th century and with an increase in the rate of rise over this period. This is consistent with the geological data and the few long records of sea level from coastal tide gauges. From 1993 to the end of 2006, near-global measurements of sea level (between 65°N and 65°S) made by high precision satellite altimeters indicate global average sea level has been rising at 3.1 ± 0.4 mm per year. Hugo Ahlenius, UNEP/GRID-Arendal (June 2007)

The CARB program is intended to achieve reductions by placing an overall emissions limit, declining between 2013 – 2020, on major sectors that report annual emissions greater than 25,000 metric tons of carbon dioxide equivalents (MtCO2e). These sectors include large industries (e.g., cement manufacturing, paper and pulp manufacturing), petroleum refineries, electric utilities and suppliers of transportation fuels and natural gas, among others. These "capped" entities will receive permits from the state to emit a limited amount of GHG annually. To encourage the most cost-effective reductions and minimize costs to consumers, the program will permit entities to sell or trade these permits. Entities that reduce emissions above and beyond the limits of their permits can sell their excess permits to those that are not able to reduce emissions as quickly. Capped entities also may purchase a limited amount of GHG reductions from activities that are not subject to the emissions limits as "offset credits," such as forest conservation and dairy and livestock manure and methane management. Even with the flexibility to trade emissions permits or purchase offsets, the permitted emissions of GHGs across the capped sectors will collectively continue to decline over time.

The CARB program places an overall emissions limit on certain sectors



Stilt homes would be an example of adaptation to rising sea levels

©Debi Bishop/Stockphoto

If CARB rules are authorized as expected in late October, they will go into effect in 2013. In future issues, MCL will provide more

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Climate *from Page 6*

commentary on this program and other state measures pursuant to AB 32 to address climate change, and what they mean for Marin.

BCDC adds climate adaptation to the Bay Plan to address sea level rise

With little fanfare, the San Francisco Bay Conservation and Development Commission (BCDC) approved a major amendment to the Bay Plan on October 6, 2011, that projects future sea level rise and the need to prepare and adapt to a phenomenon that is already measurable. The implications for Marin County, with thousands of acres of developed and undeveloped lands that are vulnerable to projected sea level rise, are enormous.

BCDC's Bay Plan has been the guardian of San Francisco Bay and shoreline since 1968. Uses of the Bay have been transformed fundamentally by that Plan and by the three women whose actions to "Save the Bay" 50 years ago resulted in the formation of the Commission and the Bay Plan. More than 20 years ago, BCDC staff reported that sea level would rise and that large developed areas around the Bay shoreline would be vulnerable to flooding. The Commission made some amendments to the Bay Plan at that time dealing with safety of filled land and thereby became one of the first public agencies in the country to anticipate sea level rise in making permit decisions.

Dru Parker

Storm surges could exacerbate flooding in low-lying areas.

Twenty years later, the need to plan for a sea level rise had become even more critical as the linkages between human activities and climate change had been confirmed and the effects of climate change were observable. BCDC's research indicated that sea level could rise as much as 16 inches by mid-century and up to 55 inches by the end of the century, not accounting for storm surges that would further endanger low lying land. The Commission again took up the issue of sea level rise three years ago and initiated study of a proposed new amendment (Bay Plan Amendment No. 1-08) that would add an entirely new section to the Plan entitled Climate Change and update sections on Tidal Marshes and Tidal Flats, Shoreline Protection, and Public Access.

BCDC's research indicated that sea levels could rise as much as 16 inches by mid-century

The preliminary recommendations, first made public in May, 2009, unleashed a storm of objections from local communities around the Bay shoreline, developers, affected property owners, and regional economic interests. Environmental organizations and trustee agencies, recognizing the effect sea level rise could have on ecosystem restoration efforts around the Bay, gave their support. Principal among the objections was the fear that BCDC was attempting to extend its regulatory jurisdiction inland into low-lying areas behind levees. (BCDC's shoreline jurisdiction extends inland 100 feet from mean high tide level; it had no intention of expanding that jurisdiction.) The Commission continued to hold public hearings and workshops and make revisions throughout 2009 and 2010. Staff advanced numerous alternative actions, such as simply assessing risk of flooding of development in low lying areas; preparing a regional adaptation strategy; or limiting development in low lying areas within the Commission's jurisdiction. The Commission opted to amend the Bay Plan to update sea level rise findings and policies and specify new provisions exclusively to guide the Commission in exercising its regulatory authority within its permit jurisdiction without the intent of advising local governments.

The final public hearing on September 30, 2011, might have been a disappointment to the environmental community, who felt that the recommendations had been "watered down" in favor of local development interests. On the other hand, the objectors had for the most part come around to supporting the amendments, recognizing the imminent need to plan for sea level rise in their own communities and properties. The educational value alone of almost three years of public exchange on the challenging issue of sea level rise around San Francisco Bay was not lost.

The Resolution No. 11-08 passed on October 6 and concluded with the following words: "The course outlined in Bay Plan Amendment No. 1-08 is an initial, cautious and modest step in the long journey people of the Bay Area will need to take to ensure that our region remains viable, sustainable, and prosperous in the future and that our beloved San Francisco Bay continues to be protected." MCL supported adoption of this resolution.

Get Rebates for Home Energy Assessments and Upgrades! Act Now!

The County of Marin is providing financial incentives for single family homeowners who complete home energy efficiency assessments and upgrades through participation in the Energy Upgrade California Program. $300 is available for assessments and up to $6,500 is available for completed upgrades. Visit www.co.marin.ca.us/energyupgrade and click on "For Homeowners" to get started. For assistance, contact energy@co.marin.ca.us.

Federal Parks *from Page 3*

Disturbance of residential neighborhoods. In addition to disturbing parklands, one of the existing air tour flight tracks over the GGNRA goes over residential neighborhoods in and nearby Tamalpais Valley in Southern Marin. Residents there are subjected to unpredictable and disruptive noise of helicopters en route to various parts of the national parks.

Alternatives. The EA is required to consider a "No Project" Alternative. This would be a continuation of the present condition – that is, air tour companies operating under the current IOA. The companies have been permitted a total of 5,190 flights per year. Unless there are objections, the FAA could take the currently permitted operations, which have had no environmental review, and use them as the baseline for setting operation levels for the ATMPs, in spite of significant impacts.

The EA will examine two other alternatives: (1) prohibiting commercial air tour operations over and within ½-mile outside the boundary of either national park; and/or (2) establishing conditions for the air tour operations, such as limiting specific destinations and routes, limiting the maximum number of flights per unit of time, setting maximum and minimum altitudes, time of day restrictions, and restrictions for particular events. The alternatives will compare noise, visual, and other impacts and determine how they might be mitigated.

The ATMP for GGNRA also includes Fort Point National Historic Site and the San Francisco Maritime National Historical Park. These two urban sites may be less susceptible to aircraft noise than the Marin Headlands, Muir Woods, and the Seashore. These issues should be assessed carefully, and destinations and flight tracks should be limited to areas whose ambient noise levels can readily accommodate occasional over flights with minimum disturbance.

MCL agrees with the National Parks Conservation Association that, *"[T]he opportunity to listen to unobstructed natural sounds is an increasingly rare experience in America. We must ensure our national parks provide the special experience they were intended to provide, which is why the implementation of the National Parks Air Tour Management Act is so important."*

GGNRA Draft General Management Plan

The GGNRA Management Plan (GMP) published in 1980 has served the Park well for 30 years. Many visions outlined at that time, such as the restoration of Crissy Field and rehabilitation of Alcatraz Island, have been achieved. But times change! The Park is larger now. Public demand for access to parks and open spaces within the Bay Region has increased, along with the numbers of young people and diversity of visitors. Park staff knows more about the Park's resources and visitor use, the possible effects of climate change on ecological and cultural systems, and the need to minimize carbon footprint. Access and transportation infrastructure continue to need improvement.

For many visitors, Muir Woods is often their only nature conservation experience

Five years of effort have gone into updating a Plan that now encompasses 74,820 acres with myriad sites. The Park Service released the Draft GMP and Environmental Impact Statement (EIS) in early September and is accepting comments until November 7 (see details below).

The EIS examines three broad management Alternatives that could give direction for the next 20 years: (1) *"Connecting People with Parks"*; (2) *"Preserving and Enjoying Coastal Ecosystems"*; and (3) *"Focusing on National Treasures."* The EIS identifies Alternative 1 as the Preferred Alternative for all GGNRA lands in Marin, except for Muir Woods National Monument, for which Alternative 3 is Preferred.

Beyond these broad themes, the heart of the GMP lies in the Management Zones that are appropriate to the sensitivity, history and visitor opportunities for each site or segment of the Park. For example, State Route 1 and Panoramic Highway, and Conzelman, Bunker, and McCullough Roads are in "Scenic Corridor Zones." Muir Beach and the uplands of the Marin Headlands are all in "Natural Zones" where the emphasis is on retaining natural characteristics and ecological functions, while providing for appropriate visitor experiences. In contrast, Stinson Beach, Slide Ranch (developed portions), and Tennessee Valley trailhead and stables are designated "Diverse Opportunity Zones" to accommodate recreational,

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Conzelman Drive in the Marin Headlands is one of the "Scenic Corridor Zones."

Dru Parker

Federal Parks *from Page 9*

educational and other visitor-serving facilities. Rodeo Lagoon would be managed as a "Sensitive Resources Zone," restricting access.

The Preferred Alternative Concept for Muir Woods is "Focusing on National Treasures" (Alternative 3). An "Interpretive Corridor Zone" would take in the main boardwalk and wooded upper trails; "Sensitive Resources Zone" and "Natural Zone" are shown for more sensitive areas, with limited or low-impact human access; and a "Diverse Opportunities Zone" would accommodate modest visitor services at the entry. The Park Service has long recognized that, for many visitors, Muir Woods is often their only nature conservation experience. The monument offers a unique opportunity for visitors to learn about ecological processes and the legacy of conservation history in a primeval redwood forest setting that inspires awe and respect.

Dru Parker

The Presidio Riding Club has been at its location on Bunker Road in the Southern Marin Headlands since 1966.

Generally, MCL supports the management approaches the Park Service has outlined in the Draft GMP. We are concerned that Muir Woods is a fragile ecosystem whose long-term survival could be compromised by "loving it too much." The Park Service is aware of this fragility, however, and has managed to accommodate the 750,000-some annual visitors with great sensitivity to maintaining truly natural conditions.

Public comments can be submitted online at **parkplanning.nps.gov** or by mail postmarked no later than November 7, 2011, to: *Superintendent, Golden Gate National Recreation Area, Attention: Draft GMP/EIS, Fort Mason Bldg. 201, San Francisco, CA 94123*

Drakes Estero

Pt. Reyes National Seashore released a Draft Environmental Impact Statement (DEIS) in September for Drakes Bay Oyster Company's request for a Special Use Permit (SUP) to conduct commercial shellfish operations within congressionally designated potential wilderness in the Park for another ten years after expiration of the current right of use. Three public meetings were held October 18, 19, and 20. Comments on the DEIS can be submitted through the end of November (see below).

This issue is being considered now because in late 2009, Senator Dianne Feinstein attached a "rider" to House appropriations bill (Section 124 of Public Law 111-88) which granted discretionary authority to the Secretary of the Interior to issue the new SUP to Drakes Bay Oyster Company (DBOC), subject to review under the National Environmental Policy Act (NEPA). The Secretary will use the results of the EIS process in his decision on whether to issue a new SUP.

The Draft EIS examines the impacts of four alternatives. One is the "no-action alternative" required by NEPA. Under this alternative, DBOC's existing authorizations would expire November 30, 2012 and Drakes Estero would revert to full wilderness. Under the three "action alternatives," the Secretary of Interior would issue a new 10-year SUP to DBOC for commercial oyster operations under any of three differing levels of onshore facilities and offshore operations. The DEIS evaluates the beneficial and adverse effects of all four alternatives but does not identify a "preferred alternative," contrary to typical NEPA procedure. If a new SUP is issued, it will allow DBOC to operate until November 30, 2022, subject to National Park Service (NPS) requirements. At that time, the Estero would become full wilderness, as designated by Congress in 1976.

DBOC's current right of use goes back to 1972 when the Park Service purchased the land occupied by Johnson Oyster Company (JOC) and issued a terminable right of use to Johnson to continue the operation for a forty year term, i.e., until 2012. The right of use stated: "Upon expiration of the reserved term, a special use permit may be issued . . .provided, however, that such permit for continued use will be issued *in accordance with National Park Service regulations in effect at the time the reservation expires.*

Four years later—in 1976—Congress designated 24,200 acres of the Seashore as "wilderness,"and 8,530 acres, including Drakes Estero where the oyster operation is conducted, as "potential" wilderness. The House report added that *"all efforts should be made to steadily continue to remove all obstacles to the eventual conversion of these lands and waters to wilderness status,"* consistent with the Wilderness Act of 1964. Congress allowed JOC to continue operations until the termination of its right of use.

In 2004 the Solicitor for Department of Interior issued a legal opinion that concluded that NPS was mandated to convert the potential wilderness in Drakes Estero to full wilderness as soon as the nonconforming use could be eliminated, that is, in 2012. In effect, this opinion stated that the NPS did not have the authority to issue a new special use permit to extend the oyster operation beyond 2012. Kevin Lunny purchased the right of use and operation from JOC in 2005 with the full knowledge that the permit was scheduled to expire in 2012 but determined to circumvent that ruling by cleaning up the operation. His action had the effect of launching a debate between "wilderness" and "oyster" proponents that continues today.

MCL and Drakes Estero. There are many milestones in MCL's relationship with the Seashore, extending back some 70 years. Two years after Kevin Lunny purchased the operation from JOC, MCL stated its long-held position that Drakes Estero should become full wilderness at the end of the existing permit (Newsletter July-August, 2007). Since that time, differing interpretations of law, science, and environmental values, as well as

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The tidal marsh bordering Gallinas Creek serves as habitat for the federally endangered California Clapper Rail.

Len Blumin/Flickr Creative Commons

Airport *from Page 1*

Its operational hours would be 9:00 a.m. to 11:00 p.m. Sunday to Thursday, and 9:00 a.m. to midnight on Friday and Saturday.

All of this adds up to a complete transformation of the 9-acre site that lies between the North Fork of Gallinas Creek and the airport runway. Bordering the creek is tidal marsh inhabited by a breeding population of the endangered California clapper rail, as well as California black rail. Many other birds inhabit the area. Beyond the creek is McInnis Park. Just south of the site is the airfield and runway. In all respects it is not a suitable site for a large structure, or the year-round day and night activity of large crowds and their vehicles. This has not deterred the applicant from persisting over the years in attempts to "improve" this 120-acre airport site that was diked off from tidal marsh and partially filled many decades ago.

The Draft EIR received many critical comments, as well as a chorus of support from sports enthusiasts. Environmentalists and neighbors have monitored wildlife in the adjacent marshes of Gallinas Creek for many years. The separation of the site from most urban activities and the presence of airport runway safety zones ensured that there would be minimal human disturbance in the marshes, with the exception of a pedestrian and dog-walk (on leash) along the north bank of the Creek that borders McInnis Park. Residents of nearby neighborhoods have also voiced serious concerns about crowds and noise at evening games, traffic, the aesthetics of such a large building, and night lighting.

Central to the issue is a land swap involving two parcels of land that took place in 1983. Recognizing the environmental sensitivity of the airport parcel, the City of San Rafael and the County agreed to transfer development rights from the airport to the parcel to the west —that is, to allow higher-than-usual density near Highway 101 (e.g., Autodesk, Embassy Suites) in exchange for limiting development on the Airport site. The intent of the agreement clearly was to reserve the airport site for low-intensity uses. The Declaration of Restrictions recorded in December 1983 was ambiguous, however. It listed allowable future uses as: 1) existing airport and airport-related uses, 2) utilities as approved by an agency, 3) roadways, 4) airport-related uses, 5) open space, and 6) public and private recreation. It was silent on structures.

The problem with allowing "public and private recreation" to become a large, heavily used structure came up frequently in the public's comments on the DEIR. In a Master Response to all such comments, the FEIR reiterated: "The Project is a private recreational facility, which is one of the future permitted uses listed in the Declaration. The Declaration of Restrictions identifies the types of future uses on the airport site only, but does not place a limitation on the construction of structures for any of the uses that are consistent with the permitted uses identified in the Declaration" (emphasis added).

MCL and many others view this response as wholly unsatisfactory; clearly the intent of the Restrictions was to limit development and human activities on the site for the sake of wildlife, not to intensify development. MCL will be commenting on this issue and numerous other defects in the FEIR, and will continue to object to a project that may have merit in its own right but is clearly in the wrong location.

Federal Parks *from Page 9*

emotional rhetoric on all sides, have clouded the debate over whether the oyster farm should or should not close in 2012. MCL again stated its position in the November-December Newsletter (2010) as the EIS was getting underway. Rather than engage in the continuing debate and "trial by press," MCL has determined that the NEPA process should be allowed to run its course. MCL is now in the process of reviewing the multi-volume EIS and will examine the issues in a thorough and objective manner.

The DEIS can be obtained at **parkplanning.nps.gov/pore**. The link is titled *Drakes Bay Oyster Company Special Use Permit EIS*. Comments can be left on the website or be mailed to *DBOC SUP EIS c/o Superintendent, PRNS, 1 Bear Valley Rd, Point Reyes Station, CA 94956.* The comment period will close on November 29, 2011.

Plastic Bags *from Page 5*

- Plastic bags are the second-most common item found at worldwide coastal cleanups.
- 60-80% of all marine debris is plastic.
- Bioplastics are not the answer. They contaminate plastics for recycling, and degrade too slowly to be included in composted organic waste.

The SUPAC concluded its deliberations by recommending that all Marin cities and towns take the following common actions by the end of this year or early next year:

1. Adopt a plastic bag ban ordinance similar to that recently adopted by Marin County which would ban plastic carryout bags, but allow retailers to sell recycled content paper bags to customers for a minimum fee of 5¢ each. The recommended ordinance would also allow retailers to give free reusable carryout bags as part of a promotion. SUPAC recommends an option of applying the ordinance a year later to all retailers. (By comparison,

Continued on Page 11

Plastic Bags *from Page 10*

the County's ordinance only applies to grocery stores and pharmacies starting next January.)

2. Adopt a ban on extended polystyrene foam (Styrofoam, or EPS) take-out food containers. EPS containers contribute significantly to litter problems and break apart in tiny pieces that severely impact aquatic habitats by mixing with plankton. Styrene has also been listed as a potential human carcinogen.

To encourage Marin's cities and towns to take these steps, the County of Marin has offered jurisdictions that adopt this model ordinance by the end of 2011 at least initial enforcement as part of normal inspections of scales and registers. The County has also offered to help with educational outreach to retailers and the public, including preparation of a "guidance document" with durability standards for reusable bags. The ultimate goal is to make reusable bags the carryout bags of choice!

Bob Brown is Retired Director of Community Development Agency, San Rafael. He may be reached at sustainabilitybob@gmail.com.

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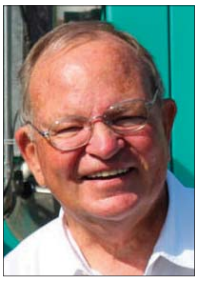
New Director Profiles

Jon Elam and Gail Wilhelm

Marin Conservation League elected five new Board Members at its Annual Meeting on April 15, 2011. Two are profiled here.



Jon Elam, San Anselmo

Jon serves as the General Manager for the Tamalpais Community Services District (TCSD) in Tamalpais Valley, a neighborhood of 7,000 residents. He has been in this position since the summer of 2005 after serving for over 30 years as a City Manager and Public Works Director for California and Minnesota cities and regional agencies. Jon's approach is to focus on building a sense of community identity through the services TCSD provides. This includes a park and recreation program with seven parks, many parcels of open space, a refuse collection program that offers a range of collection choices including food and green waste as well as recycling and garbage, and a 32.3 mile sewer system.

Jon has a long history in Marin County and helped manage State Senator Peter Behr's campaign in 1974, with Bill Press and Bunny Lucheta. Jon has a B.A. degree from UC Davis and MPA from Kennedy School of Government at Harvard. Jon has been a participant in the past four United Nations Framework Convention on Climate Change conferences as a delegate with the California Climate registry and reserve and will attend the 2011 meetings in South Africa in December.

Jon is married to Julie Elam who is the Head of School at Marin Primary and Middle School in Larkspur. They have two children.

He brings to the MCL Board a sense of everyday issue solving and a strong commitment to preserving the quality of life counted on by all who live in Marin.

Gail Wilhelm, Novato

Gail is a lifelong political/environmental activist. Her first memories of participating in a group action were joining a picket line in support of increasing teachers' salaries, at the age of 9. Her life since then has been participating in many battles, including civil rights, the Equal Rights Amendment, Marin Open Space District, Mt. Burdell Open Space District, establishment of Olompali State Historic Park, preservation of the Rush Creek wetlands, conversion of Hamilton Air Force Base runway to wetlands and many more.

The activism led to service in public office on the Novato Planning Commission, the Novato City Council and a term on the Marin County Board of Supervisors. When she started out her opponents called her a radical. Now she is called "Old Guard."

As a Board member of MCL she brings the passion and skills of a lifetime of defending Marin's environment and enhancing our unique quality of life and work to create the "New Guard" to carry on the good fight. Gail serves as Chair of MCL's Land Use and Transportation Committee, which meets on the first Wednesday of the month at 9:00 a.m. at the MCL office, 1623—A Fifth Avenue, San Rafael.

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Contact Information
1623-A Fifth Avenue
San Rafael CA 94901
415.485.6257
www.marinconservationleague.org

Committee Meeting Schedule

Land Use and Transportation: 1st Wed. of the month, 9:00 - 11:00 AM

Parks and Open Space: 2nd Thurs. of the month, 3:00 - 5:00 PM

Water and Watersheds: 4th Thurs. of the month, 4:30 - 6:30 PM

North Marin Unit (NMU), Climate Action: Call 415.485.6257 or see our website for meeting details.

Meetings (except for NMU) are at 1623-A Fifth Avenue, San Rafael

Marin Conservation League was founded in 1934 to preserve, protect and enhance Marin County's natural assets.

MCL is a non-profit 501(c)3 organization. All contributions and memberships are tax-deductible to the extent allowed by law.

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