

**CALENDAR ITEM
C52**

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S	3	E. Gillies

REQUEST AUTHORIZATION FOR THE EXECUTIVE OFFICER TO SIGN, ON BEHALF OF THE COMMISSION, A LETTER OF INTENT TO WORK COLLABORATIVELY WITH THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY IN DETERMINING THE APPROPRIATE ENVIRONMENTAL DOCUMENTATION FOR THE TOMALES BAY VESSEL MANAGEMENT PLAN (TBVMP) AND TO SEEK FUNDING FOR PREPARING SUCH DOCUMENT, LOCATED EXCLUSIVELY AT TOMALES BAY, MARIN COUNTY

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

BACKGROUND:

The draft Tomales Bay Vessel Management Plan (TBVMP) is the result of a long-term multi-agency effort to streamline and coordinate vessel management activities for the benefit of the public. Implementation of the TBVMP is also expected to improve water quality, protect wildlife and habitat, protect public health, and facilitate recreational opportunities in Tomales Bay. The TBVMP is being developed by the Gulf of the Farallones National Marine Sanctuary (GFNMS) and the California State Lands Commission (CSLC or Commission) staff in collaboration with nine other local, state and federal agencies with jurisdiction in Tomales Bay. This group is collectively known as the Tomales Bay Interagency Committee (TBIC). The draft TBVMP is currently under agency review and has not been released to the public. Prior to the TBVMP being finalized, CSLC staff will bring the draft TBVMP to the Commission for its consideration and approval.

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GFNMS has been vested with the authority, in accordance with the National Marine Sanctuary Act of 1972 (NMSA), to provide comprehensive and coordinated conservation and management of 967.8 nautical square miles of nearshore and offshore waters off California. Since its designation in 1981, GFNMS has the authority to regulate certain activities within its boundaries, pursuant to the NMSA. The primary objective of the NMSA is resource protection, which is carried out by the GFNMS pursuant to regulations (codified at 15 CFR Part 922), through the issuance of permits, through coordination with other local, State, and federal agencies, and by outreach, education, research, monitoring, and enforcement.

In 1994, a group of local, State, and federal agencies with jurisdiction over water quality and boating in Tomales Bay began meeting periodically to discuss vessel management, moorings, and water quality concerns. Through these discussions, the collaborating agencies recognized the potential impacts caused by vessels and associated facilities to the water quality, public health, safety, wildlife, and natural habitats of Tomales Bay.

The mandates of the agencies involved include maintaining and/or improving water quality, maintaining and/or improving native wildlife populations and natural habitats, protecting public health and safety, and providing opportunities for water-dependent commercial and recreational uses.

Over time, the concerns of the participating agencies evolved from focusing on vessel sewage discharge and impacts from moorings and derelict or deserted vessels to include the introduction of invasive species, disturbance to wildlife, and discharge of oil, fuel, and vessel maintenance products. The participating agencies determined that they should act in a coordinated manner to address all of these vessel-related management issues including the consideration of vessel storage needs in Tomales Bay. The GFNMS facilitated this collaborative process through the TBIC. The CSLC is a co-lead with the GFNMS in the process of developing the TBVMP.

In 2007, GFNMS and CSLC staffs produced the document, "Protecting Tomales Bay by Managing Vessel Usage: A Document for Public Input." The document was a result of the multi-agency effort to coordinate current and future vessel-related activities to improve water quality, protect wildlife and habitat, protect public health, and facilitate recreational opportunities in Tomales Bay. A primary goal of the document was to solicit vessel management recommendations from individuals and organizations in the local community and users of Tomales Bay to protect public health and the Tomales Bay ecosystem. The document was

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released in 2007 for a 60-day comment period and two “brainstorming” workshops were held.

As a result of public comments received on the document, GFNMS committed to continuing to engage boaters and the local community in providing input on the development of a draft vessel management plan for Tomales Bay. Towards that end, the Gulf of the Farallones Sanctuary Advisory Council initiated a Working Group for Tomales Bay Vessel Management. The Working Group consisted of representatives of boating associations, shellfish growers, commercial fishermen, boat services operations, conservation organizations, shore-side property owners, and State and federal agencies with jurisdiction in Tomales Bay. GFNMS facilitated seven Working Group meetings through April 2009. Working Group topics included: vessel sewage and oil waste disposal services; mooring criteria; mooring fields; mooring tackle; mooring permitting process; and boater education. These meetings resulted in a list of recommendations to the GFNMS Advisory Council. In December 2009, the Advisory Council reviewed all the Working Group recommendations and forwarded a final list of recommendations to GFNMS. The list of recommendations is provided in Exhibit A.

The GFNMS expressed its intent to collaborate with the CSLC to jointly determine if an Environmental Impact Report/Statement (EIR/S) will be needed for the Tomales Bay Vessel Management Plan by conducting an Initial Study/Environmental Assessment and, if so, to fund and contract for services to develop an EIR/S (provided such funding is available). Agreement between CSLC and GFNMS will be through the Letter of Intent (Exhibit B). As provided above, both the GFNMS and the CSLC are co-lead agencies in the TBIC that is working to develop a Vessel Management Plan for Tomales Bay. The Letter of Intent sets forward the understanding that the two agencies, CSLC and GFNMS, have agreed to implement specified tasks, if funding is available, to: 1) conduct the Initial Study/Environmental Assessment (IS/EA); 2) develop a mooring permit/leasing program; and, 3) if necessary, complete the EIR/S documents.

Specifically, the Letter of Intent provides that the following actions will be conducted:

A. The GFNMS will:

1. Perform an IS/EA.
2. If an EIR/S is needed, collaborate with the CSLC to seek funding to develop an EIR/S.

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3. If an EIR/S is needed, collaborate with CSLC to determine the Scope of Work to complete an EIR/S for the Tomales Bay Vessel Management Plan.
4. Collaborate with the CSLC in the development of a Tomales Bay mooring leasing and permitting program.

B. The CSLC will:

1. Assist the GFNMS in the development of the IS/EA for the TBVMP (provide review and comment, ensure consistency with State of California requirements, and assist with analysis of impacts).
2. If an EIR/S is needed, collaborate with the GFNMS to seek funding to develop an EIR/S.
3. If an EIR/S is needed, collaborate with the GFNMS to develop a Scope of Work to develop the EIR/S for the Tomales Bay Vessel Management Plan.
4. Subject to the availability of funds, and as needed, conduct a competitive bidding process and hire a contractor to conduct the EIR/S.
5. Collaborate with the GFNMS in the development of a Tomales Bay mooring leasing and permitting program.

Authorizing the Executive Officer to sign the Letter of Intent on behalf of the Commission will confirm this agreement/understanding between CSLC and GFNMS.

OTHER PERTINENT INFORMATION:

1. Generally, Tomales Bay involves ungranted sovereign tide and submerged lands under the jurisdiction of the CSLC and lands the State patented through various tideland surveys, including, but not limited to, Tideland Surveys 157 (Marin County), 107 (Marin County), 99 (Marin County), 145 (Marin County), and 241 (Marin County). Tomales Bay also involves lands that are subject to certain Boundary Line Agreements and Title Settlement Agreements, including certain portions of the areas of Marconi Cove and Chicken Ranch Beach.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA because it involves a feasibility or planning study for possible future action, which the Commission has not approved, adopted, or funded.

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Authority: Public Resources Code section 21102 and Title 14, California Code of Regulations, section 15262.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

REFERENCES:

- A. Protecting Tomales Bay by Managing Vessel Usage: a Document for Public Input, August 2007.

EXHIBITS:

- A. GFNMS Advisory Council Recommendations.
- B. Letter of Intent between Gulf of the Farallones National Marine Sanctuary and California State Lands Commission, March 10, 2010.

IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21102 and Title 14, California Code of Regulations, section 15262, feasibility or planning study for possible future action which the Commission has not approved, adopted, or funded.
2. Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.
3. Authorize the Executive Officer to sign, on behalf of the Commission, the Letter of Intent to collaborate with the Gulf of the Farallones National Marine Sanctuary (GFNMS) to jointly determine what environmental documentation is necessary for the proposed Tomales Bay Vessel Management Plan and to collaborate with the GFNMS to seek funding for the development of an Environmental Impact Report/Statement if such a document is necessary.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

Gulf of the Farallones National Marine Sanctuary
991 Marine Dr., The Presidio
San Francisco, CA 94129

March 10 2010

Mr. Paul D. Thayer
Executive Officer
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

Dear Mr. Thayer:

This Letter of Intent (LOI) from the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of National Marine Sanctuaries (ONMS), through the Gulf of the Farallones National Marine Sanctuary (GFNMS) expresses the intent of this agency to collaborate with the California State Lands Commission (SLC) to jointly determine if an Environmental Impact Report (EIR) / Environmental Impact Statement (EIS) will be needed for the Tomales Bay Vessel Management Plan by conducting an Initial Study/Environmental Assessment (ISEA) and, if so, to fund and contract for services to develop and EIR/S (if such funding is available). Both the GFNMS and the SLC are co-lead agencies in an Interagency Committee that is working to develop a Vessel Management Plan for Tomales Bay. This letter sets forward the understanding of the GFNMS that the two agencies, SLC and GFNMS, have agreed to implement specified tasks if funding is available, to: 1) conduct the ISEA; 2) develop a mooring permit/leasing program and, 3) if necessary, complete the EIR/S documents.

BACKGROUND

Our agencies, GFNMS and SLC, are co-leading a multi-agency effort to identify ways to improve ecosystem protection in Tomales Bay by assessing vessel use and storage. Eleven local, state and federal agencies with jurisdiction over boating, parks, waters, submerged lands, and shore areas of Tomales Bay are jointly developing a vessel management plan for Tomales Bay. The Plan is intended to achieve the following goals identified by the multi-agency committee:

- Protecting public health
- Improving water quality
- Protecting habitat
- Decreasing wildlife disturbance
- Ensuring safe and enjoyable water-related recreation

The Draft Vessel Management Plan for Tomales Bay addresses these specific concerns:

- Preventing discharges of sewage from vessels
- Removing and preventing derelict and abandoned vessels
- Removing illegally and improperly placed moorings
- Providing mooring and additional boat storage in a manner that protects Bay resources
- Preventing the introduction of invasive species
- Preventing discharges of oil, gas, and toxic products from vessels

At this time, an ISEA must be performed to determine whether the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) require an EIR/S or other environmental document to be developed. If required, our agencies will enter into a Memorandum of Understanding to jointly provide for the funding, if available and services needed to develop these reports.

ACTIONS TO BE IMPLEMENTED

It is my understanding that GFNMS and SLC have agreed that the following actions will be conducted:

- A. The GFNMS will:
 - 1. Perform an ISEA.
 - 2. If an EIR/S is needed, collaborate with the SLC to seek funding to develop an EIR/S.
 - 3. If an EIR/EIS is needed, collaborate with SLC to determine the Scope of Work to complete an EIR/S for the Tomales Bay Vessel Management Plan.
 - 4. Collaborate with the SLC in the development of a Tomales Bay mooring, leasing and permitting program.
- B. The SLC will:
 - 1. Assist the GFNMS in the development of the ISEA for the Tomales Bay Vessel Management Plan (provide review and comment, ensure consistency with State of California requirements, and assist with analysis of impacts).
 - 2. If an EIR/S is needed, collaborate with the GFNMS to seek funding to develop an EIR/S.
 - 3. If an EIR/S is needed, collaborate with the GFNMS to develop a Scope of Work to develop the EIR/S for the Tomales Bay Vessel Management Plan.
 - 4. Subject to the availability of funds, and as needed, conduct a competitive bidding process and hire a contractor to conduct the EIR/S.
 - 5. Collaborate with the GFNMS in development of a Tomales Bay mooring, leasing and permitting program.

Please confirm that this is your understanding of the process and actions for moving forward. I look forward to the continued cooperation between our two agencies to see this project through to completion. Feel free to contact Karen Reyna, at 415-561-6622 x208, karen.reyna@noaa.gov, with questions or concerns.

Sincerely,



Maria Brown, Superintendent
Gulf of the Farallones National Marine Sanctuary

I concur with this letter.

Paul D. Thayer
Executive Officer
California State Lands Commission