

MINUTE ITEM
This Calendar Item No. C20
was approved as Minute Item
No. 20 by the State Lands
Commission by a vote of 3
to 0 of its 3/12/91
meeting.

CALENDAR ITEM

A 8

C 2 0

S 4

08/12/91
W 24748
Pelkofer

AUTHORIZE RETAINING POSSESSION OF ARTIFACTS

APPLICANT:

California Department of Parks
and Recreation
Attn: Tom Nexon SPRI
c/o Clear Lake District
Anderson Marsh State Historic Park
Kelseyville, California 95451-9126

AREA, TYPE LAND AND LOCATION:

Shorezone around Anderson Marsh State Historic Park at the
southern portions of Clear Lake and along portions of Cache
Creek in Lake County, California. No transfer of ownership
or control of land is involved.

PROPOSED ACTIVITY:

The Department of Parks and Recreation, which administers
the Anderson Marsh State Historic Park, proposes to retain
Native American artifacts, confiscated from persons who
removed them from lands under the Commission's jurisdiction,
and preserve and place them on display in the museum
facility at the State Park.

TERMS OF PROPOSED AUTHORIZATION:

The authorization would be for an indefinite time period
until revoked by the Commission. No transfer of ownership
would be involved and the Department would acknowledge the
contribution of the artifacts by the Commission.

CONSIDERATION:

The public benefit.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 7003.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. It is a generally accepted principle of property law that goods (including historical artifacts) found in or on the ground belong to the owner of the soil on the basis that possession of the soil carries with it whatever is embedded therein.
2. Chapter 639 of the Statutes of 1973 granted the bed of Clear Lake to Lake County. The Commission has interpreted this grant to include the land to high water. The county, however, has taken the position, as in State of California v. Superior Court (Lyon), that the grant extended only to low water. The disputed area involves the portion of the lake covered by the public trust. The actual high and low water marks for Clear Lake are still being litigated. Additionally, certain portions of Cache Creek, which can be considered an "arm" of Clear Lake, were not included in the grant. In those areas, the creek has formed islands and oxbows which contain numerous Native American artifacts. These areas are State lands under the jurisdiction of the Commission.
3. Because of the drought-induced low waters, the artifacts have been exposed and are subject to theft. The rangers at the Anderson Marsh State Historic Park are enforcing the law and confiscating the artifacts. They request the authorization of the Commission to retain these confiscated artifacts as an accession to their collection and management system for public display. Since the Commission has neither the personnel nor the funds to preserve or display these artifacts, staff considers the request to be reasonable.
4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this

CALENDAR ITEM NO. C 2 0 (CONT'D)

activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. AUTHORIZE THE STAFF TO PERMIT THE DEPARTMENT OF PARKS AND RECREATION TO RETAIN AS AN ACCESSION TO THEIR COLLECTION AND MANAGEMENT SYSTEM, ARTIFACTS WHICH HAVE BEEN TAKEN BY THE PUBLIC FROM STATE LANDS UNDER THE COMMISSION'S JURISDICTION AND CONFISCATED BY THE DEPARTMENT RANGERS.