

CALENDAR ITEM
C63

MINUTE ITEM
This Calendar Item No. C63
was approved as Minute Item
No. 63 by the State Lands
Commission by a vote of 2
to 0 at its 7/11/97
meeting.

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07/11/97

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W 25383

P. Pelkofer

**AUTHORIZATION TO ENTER AN AGREEMENT WITH
THE NATIONAL PARK SERVICE FOR
A JOINT SUBMERGED CULTURAL RESOURCES SURVEY**

APPLICANT:

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

AREA, TYPE LAND AND LOCATION:

A 20 acre parcel of ungranted tide and submerged land, located in the Pacific Ocean, Drakes Bay, Marin County, California.

PROPOSED ACTIVITY:

The National Park Service (NPS) has proposed an "Agreement" Exhibit A, under which a submerged cultural resources survey of the Point Reyes National Seashore would be conducted by NPS, National Oceanic and Atmospheric Administration (NOAA), and the California State Lands Commission. Each of the parties exercises jurisdiction in the waters of the Pacific Ocean offshore of the Point Reyes National Seashore.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code section 6301 (Administration of tide and submerged lands)
- b. Public Resources Code sections 6106 and 6108 (Authority to execute documents and written instruments)
- C. Public Resources Code sections 6309, 6313 and 6314 (Shipwreck and Historic Maritime Resources Program)

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

In 1982 and 1983 the NPS conducted and underwater remote sensing survey of

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the submerged land of Drake's Bay, the Headlands and Ocean Beach. A number of historic shipwrecks were located and documented. In 1989, the California State Lands Commission conducted a magnetometer survey of the same general area to verify the results of an earlier survey conducted under permit by Phoenician Enterprises. During each of the surveys, magnetic anomalies were identified, but the many locations were not dived to seek surface artifacts, or when dives were made they disclosed nothing on the surface.

Since the conduct of these previous surveys, the technology used to locate, and recover historic artifacts has greatly improved and it is proposed that the sites be resurveyed and revisited in a new effort to locate and recover historic artifacts. It is proposed that a new survey be conducted using magnetometer, sidescan sonar, bottom classification unit and fathometer, all interfaced with global positioning technology.

The proposed agreement between the National Park Service and the Commission to survey and recover historic artifacts is the preliminary step in a process which will require a permit from the Commission before the activities proposed within the scope of agreement will be undertaken. The permit and the necessary CEQA documentation for the survey activities is being prepared and will be presented to the Commission at a later meeting.

Other participants in the project will be the Gulf of the Farallones National Marine Sanctuary, San Francisco Maritime National Historic Park, and the Institute for Western Maritime Archaeology at Berkeley. The Institute for Western Maritime Archaeology, under contract with the Commission, will provide a marine archaeologist who will act as the Commission's advisor and representative during all phases of the project.

2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

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EXHIBIT :

- A. Agreement with the National Park Service

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

2. AUTHORIZE THE EXECUTIVE OFFICER TO ENTER AN AGREEMENT WITH THE NATIONAL PARK SERVICE FOR A COOPERATIVE EFFORT TO CONDUCT A CULTURAL RESOURCES SURVEY OF DRAKES BAY.

DRAFT

AGREEMENT
Between
NATIONAL PARK SERVICE
POINT REYES NATIONAL SEASHORE
and
CALIFORNIA STATE LANDS COMMISSION

THIS AGREEMENT is made by and between the National Park Service acting through Point Reyes National Seashore, (hereinafter referred to as "NPS") and the State of California State Lands Commission (hereinafter referred to as "SLC").

ARTICLE I - BACKGROUND AND OBJECTIVES

WHEREAS, the "ACT OF AUGUST 25, 1916, 39 Stat. 535, 16 U.S.C. §1 et seq." declares that the National Park Service shall promote and regulate the use of Federal areas known as national parks, monuments and reservations by such means and measures as to conform to the fundamental purposes of the parks, monuments and reservations, which purpose is to conserve the scenery and natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations; and

WHEREAS, the NPS has a major park objective to provide recreational opportunities which foster environmental awareness and knowledge of park resources; and

WHEREAS, the Omnibus Parks and Public Lands Management Act of 1996, P.L. 104-333, enacts a new subsection to enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations; and

WHEREAS, the SLC was established in 1938 by the California Legislature as set out in Division 6 of the Public Resources Code and Division 1, title 2 of the Government Code to manage and protect all public lands which the state received from the federal government upon its entry into the Union, including tide and submerged land in the Pacific Ocean from the mean high tide line seaward three nautical miles; and

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WHEREAS, the SLC, pursuant to Public resources Code Sections 6309, 6313, and 6314 administers the California Shipwreck and Historic Maritime resources Program, and acting as trustee exercises custody and control of all submerged archeological sites and submerged historic resources of the State for the benefit of the people of the State of California; and

WHEREAS, the NPS and the SLC administer submerged lands contiguous at the seaward boundary of the Point Reyes National Seashore (a distance of 1320 feet offshore, parallel to the Ordinary High Water Mark) within Drakes Bay; and

WHEREAS, archeological sites and the cultural resources which lie within the waters and submerged lands of Drakes Bay and which constitute an individual site or reflect a specific historic incident have been found during previous surveys to occupy positions which cross the boundary and lie within the territorial jurisdiction of both parties to this agreement; and

WHEREAS, a cultural resource study and survey within Drakes Bay, Marin County, would be to the benefit of both parties in carrying out their responsibilities;

NOW, THEREFORE, in consideration of the foregoing as a basis for agreement, cooperation, and assistance between the parties hereto in their compatible objectives, the parties agree as follows:

ARTICLE II - STATEMENT OF WORK

The National Park Service agrees to:

- provide access to Point Reyes National Seashore archeological site records, collections, maps, library and manuscript materials dealing with archeological resources, compliance, and preservation
- properly accession and catalog selected material culture located during the project, in accordance with NPS-28
- assist with the selection of sites for monitoring/studying
- assist with the overall project management and monitoring, provide materials and equipment as available and necessary to perform work on submerged lands managed by NPS and the SLC
- facilitate involvement of appropriate Native American organization's interests

The California State Lands Commission agrees to:

- provide access to site records, maps, surveys and any other documents which might be beneficial to the cultural resources survey
- assist with the overall project management and monitoring, providing materials and equipment as available and necessary to perform the agreed survey on submerged lands of Drakes Bay

- provide staff as available and necessary including a qualified marine archeologist who shall be the designated individual responsible for activities occurring on state submerged lands

Both parties agree:

- to attend pre-project and close-out briefings for each project undertaken at Point Reyes National Seashore including key project staff to share openly expectations, results, suggestions, and opinions to improve execution of the project
- to create a cooperative partnership to maximize the expertise and work accomplished by both organizations
- to protect and keep confidential, as provided by appropriate federal and state law, the location of any cultural site or archeological object which is found during the survey
- to make the determination of the appropriate treatment of cultural sites or archeological objects located during the survey including any decision to recover an object shall be in the discretion of the government entity in whose submerged land the site or object is located. The NPS agrees to conserve and curate all objects recovered during the survey and the SLC agrees that the NPS may retain custody of objects recovered from State submerged lands for curation and for an indefinite period thereafter so long as they remain at Point Reyes National Seashore and are used for public display or are available for appropriate research
- to relinquish and make no claim to any cultural resource found on the other parties submerged lands within the are to be surveyed
- to obtain any environmental or other permits required by their respective regulatory entities

The parties acknowledge:

- that a portion of the survey will be conducted within the Gulf of the Farallones National Marine Sanctuary adjacent to the Point Reyes National Seashore and that the National Oceanic and Atmospheric Administration, which manages the Sanctuary, has agreed to the survey and associated activities and will be a participant in the survey activities
- that various other public and private organizations and individuals will contribute to the survey and their efforts and activities will be directed by the NPS under the supervision of the designated project manager

ARTICLE III - TERM OF AGREEMENT

- A. Unless earlier terminated pursuant to ARTICLE VII below, this Agreement is effective upon final signature and shall continue in effect for a period not to exceed 5 years or until terminated by mutual agreement of the parties.

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B. This agreement may be modified only by written mutual agreement of both parties.

ARTICLE IV - KEY OFFICIALS

The personnel listed below are identified as key and considered essential to the work being performed under this Agreement:

For the National Park Service:

- A. Don L. Neubacher
Superintendent
Point Reyes National Seashore
Point Reyes Station, CA 94956
(415) 663-8522, ext. 222
fax (415) 663-8132
e-mail: don_neubacher@nps.gov

- B. John A. Dell'Osso
Government's Technical Representative
Acting Chief of Visitor Services/Public Information Officer
Point Reyes National Seashore
Point Reyes Station, CA 94956
(415) 663-8522, ext. 226
e-mail: john_a_dell'osso@nps.gov

For California State Lands Commission:

- A. Peter Pelkofer
Senior Counsel
California State Lands Commission
100 Howe Ave., Suite 100-South
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e-mail: pelkofp@slc.ca.gov

- B. James M. Allan
Director
Institute for Western Maritime Archaeology
UC Berkeley
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Berkeley, CA 94720
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e-mail: allan@qal.berkeley.edu

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Changes in key officials shall be made by either the NPS or SLC by written notification. The notification shall include a justification in sufficient detail to permit evaluation of the impacts of such a change on the scope of work outlined within this Agreement.

ARTICLE V - PROPERTY UTILIZATION

“Not applicable.”

ARTICLE VI - PRIOR APPROVAL

“Not applicable.”

ARTICLE VII - REPORTS AND/OR DELIVERABLES

The NPS and the SLC will mutually agree to an appropriate schedule of progress reports, for each activity under this Agreement.

ARTICLE VIII - TERMINATION

This Agreement may be terminated at anytime by providing thirty (30) days written notice to the other party.

ARTICLE IX - STANDARD CLAUSES

1. Civil Rights

During the performance of this agreement, the participants agree to abide by the terms of USDI-Civil Rights Assurance Certification, non discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to assure that applicants are employed without regard to their race, color, religion, sex, or national origin.

2. Officials Not to Benefit

No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

3. Promotion

SLC shall not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies Governmental

Departmental, Bureau, or Government employee endorsement of a product, service, or position which the NPS represents. No release of information relating to this agreement may state or imply that the Government approves of the SLC's work product or considers the work product to be superior to other products or services.

4. Public Information Release

Prior to and during the survey, any public information releases concerning the survey will be coordinated by the NPS. The SLC agrees to submit for review and approval from Point Reyes National Seashore for any public information releases which refer to the Department of the Interior, any bureau, park unit, or employee (by name or title). The specific text, layout, photographic images or illustrations of the proposed release will be submitted with the request for approval. Press or other public inquiries to the SLC will normally be referred to a designated NPS public information officer. Public information releases do not include responses by State employees to the press concerning the State's involvement or activities, or the writing or release of reports or other writings concerning the survey activities which are or may become public record.

ARTICLE X - AUTHORIZING SIGNATURES

IN WITNESS HEREOF, the parties hereto have signed their names and executed this Memorandum of Understanding.

NATIONAL PARK SERVICE

Don L. Neubacher
Superintendent

Date: _____

CALIFORNIA STATE LANDS COMMISSION

Robert C. Hight
Executive Officer

Date: _____

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