

This Calendar Item No. C47 was approved as Minute Item No. 47 by the California State Lands Commission by a vote of 2 to 0 at its 06/07/04 meeting.

CALENDAR ITEM

C47

A 01

06/07/04

S 02

PRC 8535.9

W 25994

S. Young

P. Griggs

CONSIDER APPLICATION FOR A GENERAL LEASE – PUBLIC AGENCY USE, OF SOVEREIGN LANDS LOCATED IN THE PACIFIC OCEAN, NORTH OF POINT CABRILLO LIGHTHOUSE, MENDOCINO COUNTY FOR AN UNDERWATER PRESERVE FOR THE 1850 *FROLIC* SHIPWRECK SITE AND LIMITED RECOVERY OF ARTIFACTS AND TRANSFER OF CONTROL OF SUCH ARTIFACTS TO THE DEPARTMENT OF PARKS AND RECREATION

APPLICANT:

California Department of Parks and Recreation
1416 Ninth Street
Sacramento, CA 95814

AREA, LAND TYPE, AND LOCATION:

83 acres, more or less, of tide and submerged lands in the Pacific Ocean, north of Point Cabrillo Lighthouse, Mendocino County.

AUTHORIZED USE:

The establishment of an underwater preserve for the 1850 *Frolic* shipwreck site and information collection for cultural resource purposes.

LEASE TERM:

25 years, beginning June 7, 2004.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

BACKGROUND:

In 1850, the former opium clipper *Frolic*, carrying Chinese trade goods to Gold Rush San Francisco wrecked near Point Cabrillo, on what is now State sovereign land. Although Pomo Indians salvaged some of the cargo, the incident was

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largely forgotten until sport divers rediscovered the wreck in the 1960s. As with many other shipwrecks, divers retrieved artifacts from the *Frolic* for many years before such wrecks became valued and protected as important archeological sites. The *Frolic* is listed on the National Register of Historic Places, the United States' official list of cultural resources worthy of preservation.

The proposed lease area is adjacent to Department of Parks and Recreation (Parks) upland property known as the Point Cabrillo Light Station and Preserve. On its upland property, Parks plans to expand the existing interpretation of the *Frolic* story to the public. The addition of the proposed lease area to the State Parks system will enhance protection of the *Frolic* because the area would be under the direct management of local Parks staff. Parks does not intend to construct any structures within the lease area.

If this lease is approved, Parks plans to submit a request to the State Park and Recreation Commission to designate the lease area as a State Marine Cultural Preservation Area as provided by the Marine Managed Areas Improvement Act (Public Resources Code section 36725(b)). In such designated areas, "it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted." (Public Resources Code section 36710(d)).

A portion of the proposed lease area overlaps with the existing Point Cabrillo Reserve established by the Department of Fish and Game (DFG) to protect marine life. Staff has contacted DFG regarding the issuance of the lease and the proposed designation of the 83-acre site as a State Marine Cultural Preservation Area. DFG staff has stated that there will not be a conflict with the existing Point Cabrillo Reserve.

The State Parks and Recreation Commission will, however, consult with the Fish and Game Commission and obtain its concurrence before designating the area as a State Marine Cultural Preservation Area.

Parks will maintain the public right of reasonable access in the lease area for Public Trust purposes, including, but not limited to, commerce, navigation, and fisheries, consistent with all other applicable local, State, and Federal law.

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PROPOSED ARCHEOLOGICAL RESEARCH TO BE ALLOWED:

Parks sponsored non-invasive scientific archeological research of the *Frolic* in 2003. This research included mapping and photography. The project was widely publicized, received strong local support, and resulted in a nationally televised documentary. Parks plans future archeological research to monitor the condition of the wreck, collect representative artifacts for research and study, and to collect significant artifacts at risk of loss. Such planned archeological research by Parks involving collection of artifacts or other invasive activities must receive prior written approval from the Executive Officer. Activities will be limited to the use of small hand tools. The use of any suction dredge, prop wash, explosives, or large power tools will not be permitted. Parks must comply with all other applicable local, State, and Federal law before conducting any activities in the lease area.

Artifacts may be collected only if funds are available and committed to conserving the artifacts to accepted standards for their intended use. The control of artifacts collected under this authorization may be transferred by the CSLC to Parks upon written application to the Executive Officer.

Proposed activities determined by the Executive Officer to be outside the scope of this proposed authorization will require Parks to apply for a salvage permit under Public Resources Code sections 6309 and 6313 and additional consideration under the provisions of the California Environmental Quality Act (CEQA). Within the lease area, the CSLC will retain jurisdiction over any proposals for invasive archeological research by non-Parks applicants and all proposals for commercial salvage. The CSLC will consult with Parks on all such proposals. When a salvage operation is under consideration, emphasis in the required subsequent environmental documentation will be placed on conservation and preservation of cultural resource values. Salvage proposals that are inconsistent with the purpose of this underwater preserve will not be authorized.

OTHER PERTINENT INFORMATION:

1. The proposed underwater preserve is adjacent to both public and privately held upland parcels. Parks is an upland owner in addition to numerous private landowners in the adjoining residential development. Staff has received a letter signed by area residents strongly supporting the proposed lease.
2. Public Resources Code section 6313(a) provides: "The title to all abandoned shipwrecks and all archaeological sites and historic resources

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on or in the tide and submerged lands of California is vested in the State. All abandoned shipwrecks and all submerged archaeological sites and submerged historic resources of the State shall be in the custody and subject to the control of the Commission for the benefit of the people of the State of California. The Commission may transfer title, custody, or control to other state agencies or recognized scientific or educational organizations, institutions or individuals by appropriate legal conveyance.”

3. 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 as a categorically exempt project. The project’s components are exempt as follows: a) as to the issuance of the lease, the activity is exempt under Class 16, Transfer of Ownership of Land in Order to Create Parks; Title 14, California Code of Regulations section 15316 and b) as to the proposed non-invasive scientific archeological research, the activity is exempt under Class 6, Information Collection; Title 14, California Code of Regulations, section 15306

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff’s consultation with the persons nominating such lands and through the CEQA review process, it is the staff’s opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Location and Site Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF

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REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT: A) ISSUANCE OF A GENERAL LEASE, THE ACTIVITY IS EXEMPT UNDER CLASS 16, TRANSFER OF OWNERSHIP OF LAND IN ORDER TO CREATE PARKS, AND B) NON-INVASIVE SCIENTIFIC ARCHAEOLOGICAL RESEARCH, THE ACTIVITY IS EXEMPT UNDER CLASS 6, INFORMATION COLLECTION.

SIGNIFICANT LANDS INVENTORY FINDING:

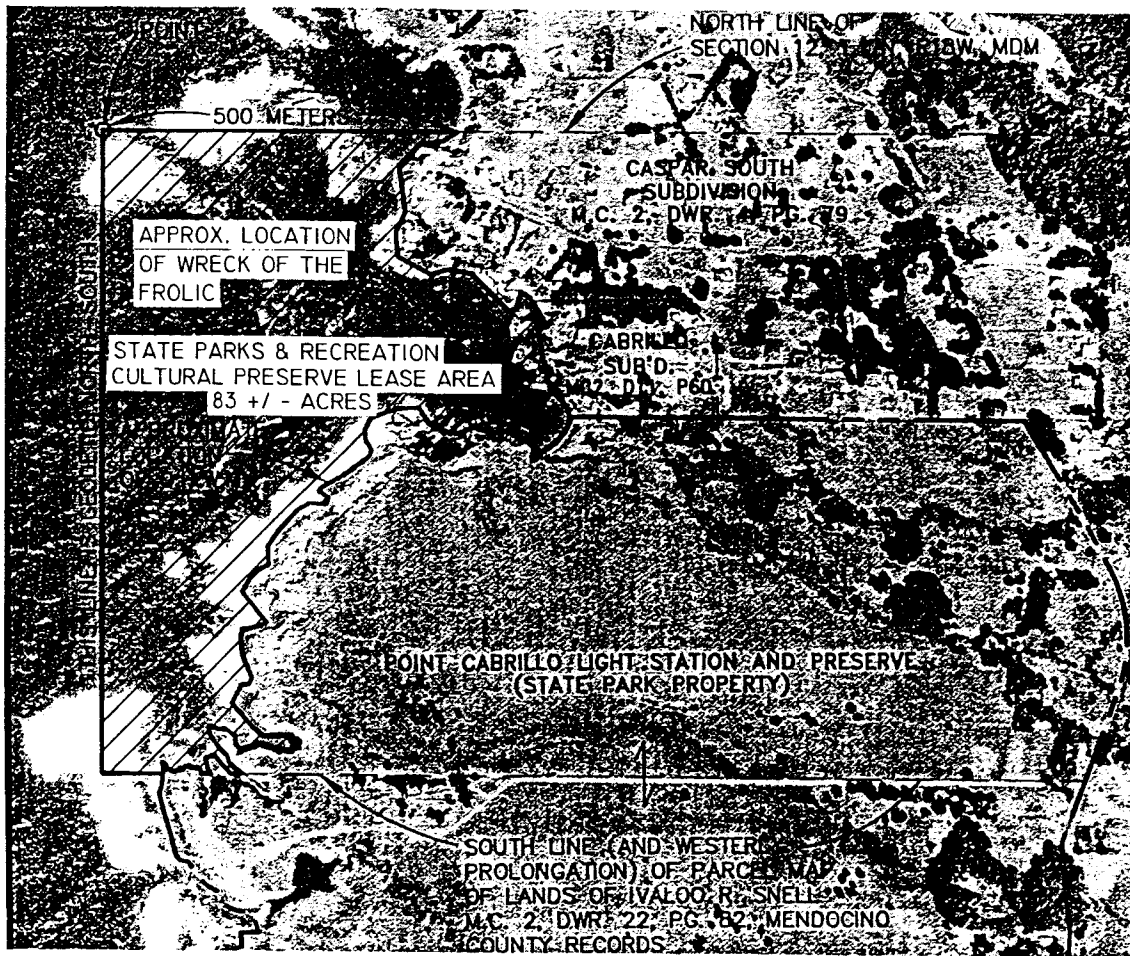
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE ISSUANCE TO CALIFORNIA DEPARTMENT OF PARKS AND RECREATION OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING JUNE 7, 2004, FOR A TERM OF 25 YEARS, FOR THE ESTABLISHMENT OF AN UNDERWATER PERSERVE FOR THE 1850 *FROLIC* SHIPWRECK AND INFORMATION COLLECTION FOR CULTURAL RESOURCE PURPOSES ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.
2. AUTHORIZE THE EXECUTIVE OFFICER TO REVIEW AND APPROVE, CONSISTENT WITH THE PROVISIONS OF SECTION 15306, STATE CEQA GUIDELINES, THE LIMITED ARCHEOLOGICAL RESEARCH ACTIVITIES AS DESCRIBED HEREIN.
3. AUTHORIZE THE EXECUTIVE OFFICER TO REVIEW AND APPROVE THE TRANSFER OF CONTROL OF ARTIFACTS COLLECTED UNDER THE ABOVE AUTHORIZATION, TO THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION AS DESCRIBED HEREIN.

NO SCALE

SITE MAP



Pacific Ocean, near Point Cabrillo Light Station
T. 17 N., R. 18 W., MDM.

LOCATION MAP NO SCALE

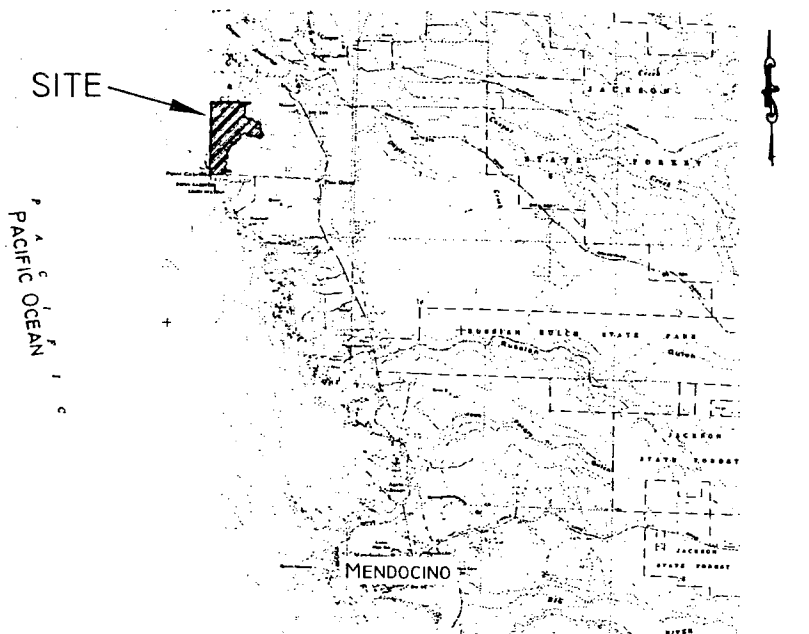
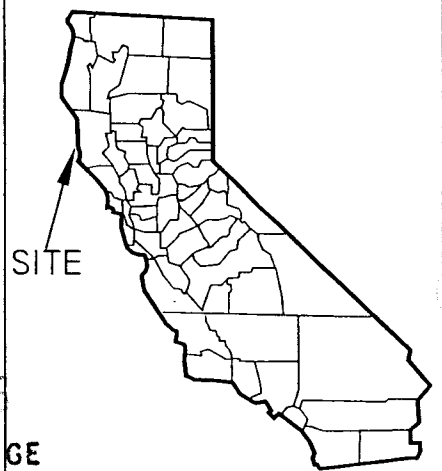


Exhibit A
W25994
Cultural Preserve
California State
Parks and Recreation
Mendocino County



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any state interest in the subject or any other property.

CALENDAR PAGE

MAP SOURCE: USGS QUAD

RAB 05-04