

CRITIQUE ON EDWARDS AND BRESCHINI REPORT

The November 1977 Inventory and Evaluation of the U. S. Lighthouse Reservation by Rob Edwards and Gary S. Breschini amounts to no more than a rehash of prior archaeological surveys, a supposed enlargement of discovered archaeological resources and a vicious unfounded defamation of the City's stewardship over the area.

The purpose and style of the report are utterly clear:

1. Suggest that important archaeological discoveries have been made in the area-- but do not be explicit in identifying their nature (otherwise as the City's Open Space Element concludes, it would be apparent that major archaeological sites do not exist in the area).

2. Suggest that thorough and complete archaeological exploration be made for the entire area to the exclusion of other uses, such as golf, recreation, open space, hiking, public view of scenery, etc.

3. Misstate the effect of Federal Laws and Regulations as to the mission of the Coast Guard in the field of historic preservation - this is no more than an egregious attempt to hood-wink the Commandant into believing further dealings with the City are fraught with danger for him.

4. Defame the City - create for the Commandant the illusion that as a matter of law the City is disqualified from acquiring the property.

5. The net effect of this, in authors' mind, must be that the Coast Guard will retain this surplus property; the Coast Guard will oust the City and the public from use of the Reservation; the Coast Guard or other federal agency will hire the authors and their hordes to sift every inch to 150 centimeter depth. In other words, the Reservation becomes a public works project for needy archaeologists. The motivation and mental meandering of the authors finds foreshadowing in their attempt to preserve property rights in MAP 3 - as if a public record secured at public expense could legally be exempted from the public domain.

DISCUSSION

A. QUALITY OF THE INVENTORY AND EVALUATION.

Quality is always suspect when appropriate references or authority are not identified, although the document acknowledges hearsay origin for a substantial part of its conclusions.

Besides not crediting indirect sources for conclusions, the report contains a bibliography which is utterly devoid of other surveys. For example, we are told that, "Several historical inventories were examined... . Research was conducted, through archives, interviews with knowledgeable individuals," but we can never verify which

portion of the report is first or second-hand.

Then there is this non-sequitur on page 5: "The field testing program consisted of an examination of all previously known prehistoric archaeological resources, as well as field reconnaissance and auger testing of known and suspected site areas, some of which were based on information gathered from the interviews and archival research."

When the report gets into identification of sites there appear to be 8 shell middens (Mnt Nos. 123, 127, 128, 130, 132, 133, 397 and 675), an acorn midden (Mnt. 264) and two historical sites - the Lighthouse (No. 674) and No. 676 (which the authors do not classify and apparently cannot because of hearsay information).

The authors take credit for expanding the fund of archaeological knowledge for having discovered Mnt 675 and expanding 127.

One wonders how such classification differs materially from the Open Space Element quotation from page 31, except for the Acorns, the Lighthouse and the hearsay historical site.

Indeed, one would expect the recent costly exploration along the route of the sewer line on Ocean View to have contributed verification or not for the statement in the Open Space Element about a continuous midden from China Point to Arrowhead Point. Yet the authors made no allusion to that work except to refer to the report of it in the Bibliography.

The report appears to condemn a 1975 dig (by persons unknown) at Mnt 130 - yet that appears to have been the methodology of the authors' colleagues on Ocean View in the Summer of '77.

How does one distinguish what the Open Space Element reports and what the authors report or what conclusions Smith might have reached on Ocean View. Calling it "Amateurism" is an intentional slur, but not a basis for distinction.

When all is said and done the Open Space Element concludes that the entire coast from Arrowhead Point to China Point appears to be a continuous midden containing the remains of Indian fishing expeditions. Edwards and Breschini ask the reader to contrast such with the results of their own survey. On page 22 they state their conclusions, "These include what appear to be gathering sites, especially for the utilization of marine resources, but include at least one acorn utilization. There is at least one large and highly significant occupation site (Mnt 130)... (based on surface survey and artifacts reported from this area)..."

The Open Space Element reports mortars and pestles - which supports Edwards in designating Mnt 264 as an acorn site. (Note: Mnt 264 is the Naval Block house plus an extension across the street into private property).

Also note that the only artifacts reported from Mnt 130 in the Report are hearsay through Don Haward at page 13.

The conclusion I reach above regarding the whole intent of the Report to turn the Reservation into an archaeological exploration area is supported at page 23:

"The opportunity to conduct research in such a community, and to gain a detailed understanding of one such area will then be of great importance to adjacent regions."

B. LEGAL FALLACIES

The paucity of accreditation in the archaeological conclusions of the report is apparent even to an amateur. It can therefore be expected that when the authors engage in a professional pursuit for which they obviously are not qualified, the practice of law, the area of invalidity would be enormous. And that has proved to be the case.

But let us first put this framework on the entire report: professional archaeologists who are engaged to make an historic survey of the Coast Guard Reservation, devote 13 of the 37 pages of the text to pseudo-legalistic harangue as to why Pacific Grove is not legally qualified to accept transfer of the Reservation.

They misstate Federal law and confuse Executive Orders, Regulations and Federal Statutes. At one point there is even an excerpt from a college student's thesis (p. 26) offered as a guideline. The same page recites procedures but without a citation of authority.

The other technique employed is that of paraphrasing the law in a way which misstates it. For example: on page 27, Section 106 of the Historic Preservation Act is quoted with an introductory statement paraphrasing it. "Section 106 of the Historic Preservation Act grants the advisory council power to comment on any Federal action regarding any property on (or eligible for inclusion on) the National Register."

This statement is materially false in three respects:

1. The Advisory Council is not given the power to comment - the head of the agency must afford a reasonable opportunity.
2. The law does not apply to any Federal action - it refers to any federally funded or any federally licensed undertaking - which would not include transfer of surplus property.
3. The site must be on the National Register and mere eligibility does not invoke the quoted section.

The same page 27 misstates the Environmental Policy Act of 1969, by assuming a transfer of surplus property is a federal project under such act.

P. 28 says that the Archaeological and Historic Preservation Act of 1974 was "in keeping with the spirit of the Executive Order" - as if Congress was amenable to Executive Orders.

Page 28 offers a quotation from the 1974 Act which clearly applies only to Federal construction projects and federally licensed activities - but not to the transfer of surplus land.

The quotation on Page 28 from the Federal Land Policy and Management Act of 1976 cites only 2 of the policy guidelines. Candor would have revealed these additional aspects of policy:

The above quotation from the Federal Land Policy and Management Act of 1976 (43USCA, Sec. 1701) should have paid heed to the other 11 stated purposes and the remainder of Subsection 8:

"that will provide food and habitat for fish and wildlife and domestic animals: and that will provide for outdoor recreation and human occupancy and use;"

The same Act prescribes the criteria for disposal at Section 1713 of Title 43. Obviously it has already been determined that the tract is no longer required for the purpose for which acquired or any other Federal purpose. Subsection (a) (3) of Section must also be considered:

"(3) disposal of such tract will serve important public objections, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership."

A fortiori, under such criteria would favor public recreation and scenic uses, already existing for the property over an archaeological dig.

Said Act also provides for priority to State and local governments in securing surplus property (Sec. 1713 (f)) and that before any land may be disposed of, the local government must have 60 days in order to have the opportunity to subject it to local land use plans (Sec. 1720).

Page 29 is an absolute distortion done by way of summarizing the Federal laws. The second paragraph on Page 29 goes so far as to falsely state: "...the responsibilities include directions to locate, inventory, evaluate, preserve, restore, and enhance these resources, while at the same time insuring that they do not leave

federal control without equally stringent regulations being placed on the recipient of the properties."

Neither is true. Federal agencies have no positive duty to explore for archaeological discoveries; nor is there a rule that similar duties be placed on transferees of Federal surplus land.

It is, of course, the rule that Federal lands be not disposed of while they are needed for Federal purposes. And Federal law requires that protective measures be taken as to known historical sites. But, it is not Federal law, as stated in net effect by Edwards and Breschini, that all Federally owned property must be archaeologically explored and preserved for archaeological exploration - or that once an archaeologist gets a subjective feeling (as distinguished from objective conformed data) that a site has historical significance, this is sufficient to arrest all other governmental, social, economic and recreational considerations.

The authors have misstated the law for their own purposes.

C. DEFAMATION OF PACIFIC GROVE.

There is in California law the Crime of Group Defamation (Penal Code, Section 258; People v. Gordon, 63 Cal. App. 627).

Based on two matters (1. A statement in the Open Space Element of the City's General Plan - that there are no major archaeological sites, and 2. a newspaper article quoting the Mayor's opinion in 1977 about the Ocean View sewer project excavations), the authors conclude that the City will not take proper care of historical and prehistoric sites.

The malice towards the City is larded with innuendoes suggesting that the City has destroyed archaeological sites in the past by building a golf course, by providing scenic parking areas along the beach, by rescuing a Coast Guard vessel and by permitting people to walk along and on the beaches and sand dunes.

Actually, the City has an excellent record of respect for historical preservation. It permitted Mr. Edwards to engage in archaeological exploration at a time it was disruptive of golf course use; it has since 1970 been operating the Lighthouse itself as a museum, on lease from the Coast Guard - at the City's expense. It entertained without required permits, the disruptions of traffic and safety, while the Ocean View sewer line excavations took place in the summer of 1977. It has for decades operated the only Museum of Natural History on the Monterey Peninsula.

Probably the most serious failure of the report, once it decided to make a value judgment on transfer to Pacific Grove, was its failure to consider other material aspects of the subject. What considerations attach to the retention of the property by the Coast Guard, such as federal needs, expense, etc.? What

benefits result from a transfer to the City, such as the recreational use of the Golf Course for the general public, the permanent preservation of scenic open space, the availability of the beaches for recreation, fishing and water sports?

All of these considerations must be balanced against the authors' understandable aspiration to preserve an archaeological exploration area. The whole world has that potential, but some of it must be devoted to present living.