



# SCAN

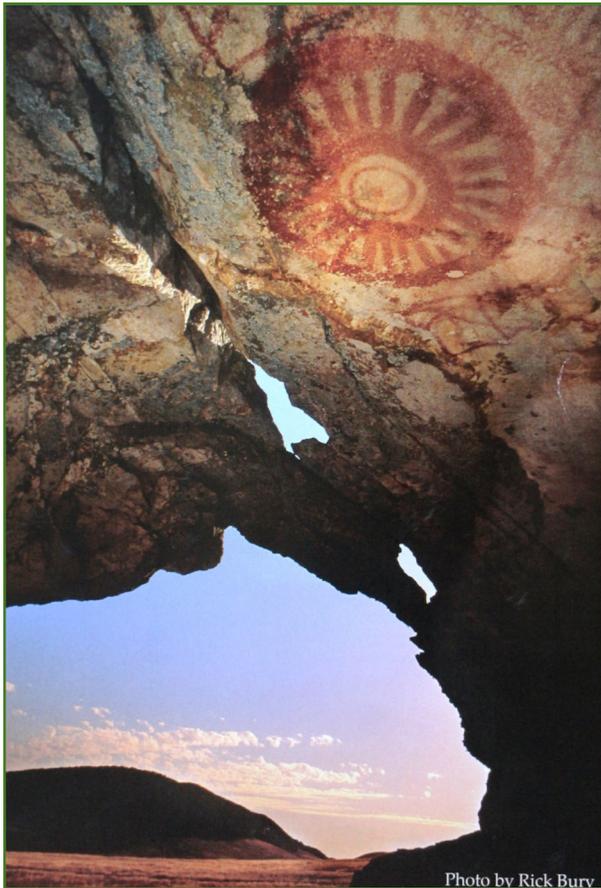


THE SANTA CRUZ ARCHAEOLOGICAL SOCIETY NEWSLETTER SPRING 2018



## SOCIETY FOR CALIFORNIA ARCHAEOLOGY MEETING, MARCH 8-11 2018 SAN DIEGO, CALIFORNIA

REPORTED BY MARY GERBIC, SCAS MEMBER



In March, a few SCAS members traveled to San Diego to attend the recent Society for California Archaeology (SCA) conference at the Crowne Plaza Hotel.

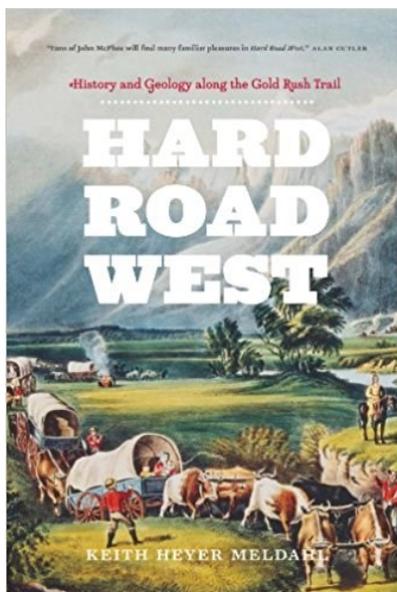
The theme of this year's conference was "Preserving California's Cherished Heritage: Our Shared Responsibility".

The conference started Thursday afternoon with a welcome reception and book signing with authors Michael Wilken-Roberson, Lynne Gamble, and Joan Schneider.

There was a new event at the SCA this year. Taking place over three days after the conference sessions were over for the day, (although the last day was rained out), the First Annual SCA Games was held in the Crowne Plaza Parking Lot. Inspired by the recent 2018 Winter Olympics, participants were able to demon-

strate their skills in timed stringing of a 1x1 meter unit (Stake it Out), toss poker chips into a screen with a shovel, name that rock/obsidian, and demonstrate their spatial skills in "How Far Is It?". Participants were given a commemorative poker chip.

Thursday evening, a public lecture was given by Keith H. Meldahl, professor of geology and oceanography at Mira Costa College in north San Diego County. Meldahl is the author three books, including *Hard Road West: History and Geology along the Gold Rush Trail*. Meldahl delivered a fascinating talk about



what it must have been like to have walked all the way from Missouri to California over range after range of “real” mountains, not those bumps that pass for mountains back east. In fact, he actually walked some of it. He quoted Robert Penn Warren “History is all explained by geography.” and helped us understand why the gold rushers chose this particular route to California, even though they had to traverse the North American Cordillera, 1000 miles wide in the area of the main emigrant routes across the Sierra Nevada.

The plenary session on Friday morning continued the conference themes of shared heritage and preservation through mitigation and curation. First, we heard from Laurie Wilkie on the UB Berkeley’s 1876 Zeta Psi fraternity house, the early 1900s rage for chop suey, and a 1920s Christian Scientist’s house. Next, Sarah Heffner helped us understand Chinese achievements in California through an archaeological lens. Diana Shew spoke of the importance of oral history in Japanese American Archaeology. We learned what an old Oakland neighborhood looked like in the heyday of Japanese nurseries and the San Francisco Flower Market.

Kimberly Wooten spoke on “The Archaeology of the Color Pink”. Wooten appeared on stage in bright pink coat and hard hat, as a future archaeologist unearthing non biodegradable pink artifacts (think Susan Komen and breast cancer). Seriously though, Wooten was speaking about the “cowboy” culture of archaeology,



Alex and Risa DeGeorgey show off their stringing skills in “Stake it Out”.

hidden disabilities stemming from Lyme disease and valley fever for instance, and what it is like to be an archaeologist undergoing chemotherapy.

Merri Lopez-Keifer, Luiseño, the chief legal council of the San Luis Rey Band of Mission Indians, spoke last. She was left off the program “by error”, and she had no power point presentation. She wanted to speak about creative mitigation measures from the tribal perspective. Her talk was a firm reminder of the need for archaeologists to deal with our archaeological curation crisis (Why are my ancestor’s belongings sitting in boxes gathering dust somewhere and nobody has studied them? ), and how important it is for archaeologists to work with tribal people. She reminded us that every time we scrape the ground to build something, this “economic progress” is also a loss of place for an entire community which has persisted despite genocide and loss of their land.

One can never see and hear everything at one of these conferences, but I didn’t want to leave out the Friday afternoon talk by Alyssa Gelinas of UCSC, who was the coauthor with our professional advisor, Dr. Tsim Schneider, of *Revisiting the Lost Adobe Of Mission Santa Cruz*. If you have been following SCAN news, you know that Casey Terfertiller consented to the examination and cataloging of artifacts from the “Lost Adobe” excavations from the 1980s which took place on his family’s land on Mission Hill. Results are preliminary, but there is some evidence that the large number of beads found in Room 2 may represent a persistence of beads and bead working among the Santa Cruz Mission neophytes, representing an on-going economy. Evidence of shell bead production was found in the room, with chert drills, obsidian debitage and Olivella shells. The artifacts were not only distributed in a horizontal pattern, but vertically as well, reinforcing the hypothesis that the manufacturing process may have continued over time. 🌿



GeorgeAnn DeAntoni and friend at the SCAS table.



Charr Simpson-Smith and the SCAS table.



Alyssa Gelinas speaking on the Lost Adobe.

# THE ANTIQUITIES ACT OF 1906 AND HR 3990: A COMPARISON, AND THE IMPLICATIONS OF PASSAGE

BY MARY GERBIC

On October 6, 2017, a bill, HR 3330, was introduced into the House of Representatives. Sponsored by Rob Bishop R-UT, the bill would amend section 320321 of Title 54 (essentially the Antiquities Act of 1906, amended and reorganized into the US Code of Law.) "...and for other purposes". The bill, called "the National Monument Creation and Protection Act", had as cosponsors, as of March 2018, Paul Gosar R-AZ, Doug LaMalfa R-CA, Doug Lamborn, R-CO, Tom McClintock R-CA, Bruce Westerman, R-AR, Don Young R-AK, John Curtis R-UT, Chris Steward R-UT. This is not the first bill of its kind and probably won't be the last. During the 114th Congress (2016-2017), three bills, S 437, S 1416, and S3317, never progressed beyond being introduced, but when considered as a group, appear to form the core of HR 3990.

Although there has been no action on HR 3990 since last year (10/17/2017), and its odds of passing as written are, according to [www.govtrak.us](http://www.govtrak.us), fairly low, it is important for those who care about environmental and cultural matters to understand what this bill proposes and how it affects the Antiquities Act of 1906.

The Antiquities Act of 1906 was passed by Congress and signed on June 8, 1906 by Teddy Roosevelt. Although the Antiquities Act grew out of concern about "pot hunting" Native American artifacts and ruins in the Southwest (aka "antiquities"), Roosevelt's first action was to preserve a geographical feature – Devils Tower, in the northeast corner of Wyoming – on September 24, 1906.

The original Antiquities Act is very brief and simple in its declarations. First, there is provision for penalties against those who excavate, injure or destroy antiquities on federal land. Second, the President of the United States is authorized to create national monuments to protect "historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest that are situated" on federal land. The monument will be of sufficient but not excessive size. Allowances are made for the acquiring of nonfederal or private land for monuments as well. Third, the examination of "ruins, the excavation of archaeological sites, and the gathering of objects of antiquity..." on federal land requires a permit and that the excavation of antiquities is for the public benefit. Last, the bill allows future amendments in order that the law be used to carry out its provisions. *Quoted passages are from the Antiquities Act of 1906. You may read the original text of the Antiquities Act of 1906 here: [www.nps.gov/history/local-law/anti1906.htm](http://www.nps.gov/history/local-law/anti1906.htm) .*

The Antiquities Act has been modified by Congress on two occasions. The first was in response to the creation of Jackson Hole National Monument, Wyoming, in 1943. Controversy erupted over this action, and when Jackson Hole National Monument became part of Grand Teton National Park in 1950, an amendment was added to the Antiquities Act to prevent a president from creating any future monuments in Wyoming without congressional approval. A similar firestorm erupted in 1980, when, after a protracted battle to set

aside lands in Alaska, President Carter used the Antiquities Act to create monuments, because the bill to create reserves and parks that was in Congress was unlikely to pass, and would be even less likely to pass during the next administration. Carter's action forced Congress and conservationists to compromise on the Alaska National Interest Lands Conservation Act (ANILCA), which was passed and signed into law by Carter in late 1980, just before he left office. As part of the compromise, language was added to ANILCA to prevent a president from creating any future national monuments in Alaska over 5,000 acres in size without approval by Congress.

In the over a hundred years since the Antiquities Act became law, our nation's collective support for the protection of our cultural and natural heritage has evolved mostly for the good. Research in the fields of anthropology, geology and biology have advanced, broadened and informed our understanding of cultural landscapes, prehistoric life, land use and biodiversity, so it is not surprising that the use of the Antiquities Act to protect landscapes of significance has also expanded.

The ability of a president to rescind (repeal or annul) a monument created by a predecessor is still under debate, and apparently has not been tested in court. While it is true that no president has ever revoked national monument status, it is true that some presidents have removed acres from a monument if that the land was determined to be erroneously added, no longer had scientific value, had resources needed during a war, or did not meet the criteria for "smallest area compatible with proper care and management of the objects to be protected". In nearly every case, the amount of land removed was relatively small, except, for example, when President Wilson removed a total of 306,125 acres from the 615,000 acre Mount Olympus National Monument, originally created by President Theodore Roosevelt in 1909. However, in 1938, Olympic National Park was created by Congress and the original lands were restored to the park.

No monuments have lost land since President Kennedy removed 3,925 acres from Bandelier National Monument in 1963, arguing that the removed land contained little archaeological value. In the 1940s and 1950s, Congress voted to rescind at least 10 monuments. Over the years, they also abolished another 52, which became national parks, historical sites or other federal protected areas, some as recently as 2014.

In 2017, President Trump ordered a review by the Department of the Interior for 24 national monuments created since 1996 and larger than 100,000 acres. As a result of the review, two monuments, Bears Ears and Grand Escalante, both in Utah, were reduced in size by 85% and 47% respectively. Secretary of the Interior Ryan Zinke, said in his memo "Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act", that:

*"While early monument designations focused more on geological formations, archaeological ruins, and areas of historical interest, a more recent and broad interpretation of what constitutes an "object of historic or scientific interest" has been extended to include landscape areas, biodiversity, and viewsheds. (See [www.doi.gov/sites/doi.gov/files/uploads/revised\\_final\\_report.pdf](http://www.doi.gov/sites/doi.gov/files/uploads/revised_final_report.pdf) for the complete text.)*

Why do we need to know this, and what is being proposed as modifications to the Antiquities Act? Although HR 3990 is brief, the changes it proposes to make are substantial and far reaching. The next section is a side by side comparison of language in the bill and the Act as they presently stand.

## HR 3990

## Antiquities Act of 1906 (as amended)

<p>Sect 2 (1) Strikes “historic landmarks, historic and prehistoric structures and other objects of scientific interest” from the Act and replaces it with “object or objects of antiquity”.</p>	<p>The president can proclaim a monument based on historic landmarks, prehistoric or historic structures or on the basis of scientific interest.</p>
<p>Sect 2 (2) Strikes “confined to the smallest area...” and replaces it with see below in e, f, g and h.</p>	<p>Limit on size variable: “confined to the smallest area compatible with proper care and management of the objects to be protected...”</p>
<p>3 (e) The president can proclaim a monument of no more than 640 acres, provided its outer boundary is no closer than 50 miles to the nearest monuments declared under this section (presumably all other monuments in the area created under Section 329321 of title 54 – the Antiquities Act)</p> <p>3 (f) if 640-5,000 acres, and not within 50 miles of another monument, the proposal must be reviewed under NEPA by the Secretary of Agriculture or Interior, as appropriate</p> <p>3 (g) if 5,000 to 10,000 acres, and 50 mile rule, an EIS or EIR would be part of the review process.</p> <p>3 (h) if 10,000 to 85,000 acres, the monument requires the approval of the legislature and governor of each state and each county where the proposed monument is located. The state governor must give the president a copy of all of these approvals.</p> <p>There is no written requirement for review as in 3 (f or g).</p> <p>There is no statement for monuments over 85,000 acres.</p>	<p>No requirements for approval by any other entity including the Secretaries of the Interior or Agriculture, or any state/local government, except that the Secretaries of the Interior, War or Agriculture can make rules and regulations to carry out this law.</p> <p>In 1950 the Antiquities Act was amended to prevent the President from creating national monuments in Wyoming without the consent of Congress. See: <a href="http://www.cr.nps.gov/history/hisnps/npshistory/righter.htm">www.cr.nps.gov/history/hisnps/npshistory/righter.htm</a></p> <p>In 1980, an amendment to ANILCA prevents the president from “withdrawing” land in Alaska “aggregating more than 5,000 acres” without the consent of Congress. See: <a href="http://www.fws.gov/laws/lawsdigest/alaskcn.html">www.fws.gov/laws/lawsdigest/alaskcn.html</a></p>

**HR 3990 (continued)**

**Antiquities Act of 1906  
(as amended)**

<p>3 (i) Emergency proclamation for “objects or objects of antiquity” : if they are in imminent threat of damage or destruction, a proclamation for protection can be made, but it cannot be created a monument under (i), and the proclamation is good for a year and cannot be renewed. Under Section 3 (i) (4) existing land rights are still valid. Section 3 (e) does not apply.</p>	<p>There is no provision for emergencies as it is not needed.</p> <p>Preexisting leases grandfathered in, but no new development allowed. This is not specifically called out in the law.</p>
<p>3 (j) The president is given the authority to reduce by up to 85,000 acres any monument declared under this section, or by more than 85,000 acres with the approval of state governor, legislature and county governments where the monument is located and if reviewed under NEPA.</p>	<p>There is nothing in the Act permitting or forbidding a president from shrinking a monument, enlarging it or discontinuing it. A president has modified one monument by a predecessor, but never abolished a monument.</p> <p>However, by the concept of “plain meaning”, it has been assumed that the Act does not allow the right to rescind, as the president has been authorized to “declare”.</p>
<p>3 (k) non-federal land “cannot be placed within the exterior boundaries of a national monument without the express written consent of the owners of that non-federally owned property. (This is not a prohibition of a taking, but of creating a monument around land that is not part of the monument.)</p>	<p>Allowances made to acquire non-federal land for a monument, but methods for acquiring the land are not specified.</p> <p>Private or state-owned land which may be surrounded by a monument is not discussed.</p>
<p>3 (l) No extra money is authorized by this bill.</p>	<p>Funding is not mentioned in the Antiquities Act.</p>
<p>3 (m) No water rights granted for the monument except as allowed by state law.</p>	<p>Water rights never mentioned. Unclear if water rights owned by other entities have been affected by monument status in the past.</p>
<p>3 (n) (2) definition of land shall not include submerged land or water.</p>	<p>At present, it is legal to create a national monument which includes or protects marine or fresh water resources.</p>
<p>3 (n) (3) “object or object of antiquity “ specifically does not include natural geographic features or objects not created by humans other than non-fossil fuel fossils, or human/animal skeletal remains.</p>	<p>The Act specifically includes any landmarks or objects of scientific interest.</p>

## **Implications**

Predicting outcomes resulting from a bill which has not passed can be an exercise in uncertainty, however here are some possible implications for HR 3990 as it is now written.

1) A president's ability to create or modify monuments will be restricted. An important point is that a president will be able to create a national monument unilaterally, but only up to 640 acres in size, but could unilaterally reduce the size of a monument by up to 85,000 acres. It is unclear if the creation of monuments greater than 85,000 acres is not called out because of an oversight or because it is not allowed. HR 3990 does not authorize the president to rescind national monuments. Nothing in the current or proposed law prevents Congress from creating, rescinding or transferring national monuments to another status, and they have done so in the past.

2) Certainly, many historic or prehistoric structures can be contained within a 640 acre monument, however, imposing a rule that a new monument could not "landlock" other property without the written permission of the property owner, or that monuments could not be created within 50 miles of another monument's exterior boundary, greatly limits protecting "objects of antiquity" which are within 50 miles of each other but with "inappropriate" intervening land, or taking a landscape approach to the preservation of antiquities or anything else.

For instance, some paleontologists are greatly concerned about the reduction in size of Grand Escalante NM and Bears Ears NM, because great swaths of geologic history containing fossils of scientific importance are being removed from protection, which is likely to embolden illegal fossil hunting on federal land. Many of these areas are also at risk from destruction by mineral extraction. Some areas at risk are certain Quaternary sites, including areas of interest to archaeologists, the type area for the Kaibab Limestone, and bone beds and fossil quarries which are now under pressure from looting.

3) Lobbyists and extractive industries may have more leverage to remove land from a monument or prevent the creation of a monument if they have a government entity which will act in their interests and object to the monument, as opposed to having to target one individual, the President. Contrary to some statements otherwise, national monuments are not created without public and stakeholder input, although with all such processes, there is compromise, and no one gets everything they want.

4) Mineral extraction and oil exploration are still necessary functions, however, both can cause disruption and destruction of the natural environment and pollution. For instance, many people may not be aware that the Mining Law of 1872, as amended, allows anyone over 18 years of age to create a claim for a hard rock or placer mine on federal land, register it with the Bureau of Land Management (BLM), with a \$212 registration fee, and annual payment of \$150. These claims are good in perpetuity. Although the claims are small, standard practice in the mining industry is to consolidate such claims. The US government receives no royalties from hard rock (such as uranium) mining and becomes responsible for abandoned mine cleanup at a later date. There have been several attempts to rectify this oversight as of 2007 and 2009, but no bills passed both the House and Senate. One modification was made by the Clinton administration in the 1990s, that made most newer claims "unpatented", that is, the owner of the claim owned the mineral rights under the land, but in order to develop the land, must go through the normal permitting and environmental studies required by the land agency.

5) Marine national monuments cannot be created. These monuments created through the Antiquities Act are separate from national marine sanctuaries, created through a different process. Recent marine national monuments include: Northeast Canyons and Seamounts (2016, 3,144,320 acres), Mariana Trench (2009, 60,938,240 acres), Pacific Remote Islands (2009 and 2014, 313941,851 acres), Rose Atoll (2009, 8,609045 acres), Papahānaumokuākea (2006 and 2016, 372,848,597 acres). Several of these monuments are recommended for further review for the protection of fisheries.

Marine shipwrecks or scenes of marine military battles could not be protected as national monuments. They could be protected in marine sanctuaries, state or national parks.

6) Preservation of cultural landscapes, landscapes valued for their unique features or beauty, and large blocks of geologic history or of other scientific interest, including hotbeds of biodiversity or animal migration corridors may not be preserved because they do not meet the definition under HR 3990 as “objects of antiquity”.

7) It is unclear whether or not land declared under a monument loses its water rights, an important consideration in the western United States.

8) If modifications in HR 3990 are enacted, structures which are constructed after “the date of the enactment of this subsection”, cannot be considered for a national monument in the future because there is a hard date cut-off. Contrast that to structures potentially eligible for the National Register of Historic Places once they are 50 years old. For example, places closely associated with the early years of the Vietnam War may be listed as of 2016, and most World War II sites and landmarks became eligible between 1990 and 1995. 🌿

## IN ARCHAEOLOGY NEWS:

February 2018: **Using LiDAR technology, archaeologists have been able to map 770 square miles of forest in Guatemala**, and discovered 60,000 Maya structures. **To learn more, see:** [www.npr.org/sections/thetwo-way/2018/02/02/582664327/game-changer-maya-cities-unearthed-in-guatemala-forest-using-lasers](http://www.npr.org/sections/thetwo-way/2018/02/02/582664327/game-changer-maya-cities-unearthed-in-guatemala-forest-using-lasers) OR [www.sciencedaily.com/releases/2018/02/180221140946.htm](http://www.sciencedaily.com/releases/2018/02/180221140946.htm)

**Were Neanderthals cave artists also?** **To learn more, see:** [www.npr.org/sections/health-shots/2018/02/22/587662842/cave-art-may-have-been-handiwork-of-neanderthals?utm\\_medium=RSS&utm\\_campaign=news](http://www.npr.org/sections/health-shots/2018/02/22/587662842/cave-art-may-have-been-handiwork-of-neanderthals?utm_medium=RSS&utm_campaign=news)

**Paint the Eyes Softer: Exhibit in Northwestern University’s Block Museum of Art** shows how even in 2nd Century Egypt, artists followed instructions for creating mummy masks. **To learn more, see:** [www.sciencenews.org/article/modern-tech-unravels-mysteries-egyptian-mummy-portraits?mode=topic&context=49](http://www.sciencenews.org/article/modern-tech-unravels-mysteries-egyptian-mummy-portraits?mode=topic&context=49)

**Did you miss the story of Naia?** A recent NOVA presentation described how bones from one of North America’s earliest people was discovered and retrieved from a cave system somewhere in Central America. The program **First Face of America** aired on your PBS station on February 7th. **See:** [www.sciencenews.org/article/first-face-america-explores-how-humans-reached-new-world?mode=topic&context=49](http://www.sciencenews.org/article/first-face-america-explores-how-humans-reached-new-world?mode=topic&context=49)

# SCAS GENERAL MEETING SCHEDULE

**General Meetings take place on the second Thursday of the month, 7:30 p.m., at the Santa Cruz Live Oak Grange Hall at 1900 17th Ave, Santa Cruz, CA 95062.**

**This building is on 17th Avenue between Capitola Road and Mattison Lane.**

April 12, 2018	Sarah Peelo, Albion Environmental	“Public Uses of Household Spaces: Archaeological Data Recovery of Room 102 Rancho San Andres Castro Adobe”
May 10, 2018	Lee Panich, Santa Clara University	
June 14, 2018	GeorgeAnn DeAntoni, UCSC Graduate Student	
September 13, 2018	Beth Mabie, Osteologist	
October 11, 2018	Juliana Quist, Archeo-Tec	
November 8, 2018	John Foster, Retired, California State Parks	

## California Bricks



<http://calbricks.netfirms.com>

Brick lovers, don't miss this site. Dan L. Mosier has constructed a website containing the history of California bricks and brick makers, organized by county and also by marking. Imported bricks are also included.

Feeling hot and achy? The History Dude reports on the flu epidemic of 1918. Visit Sandy Lydon's *Central Coast Secrets* website to learn how we overcame the flu 100 years ago. [www.sandylydon.com](http://www.sandylydon.com)

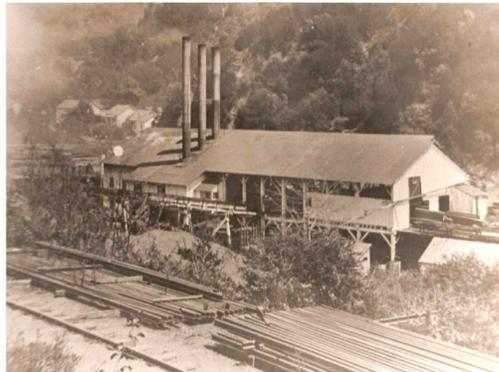
# ARCHAEOLOGICAL SOCIETY BUSINESS

## SCAS Officers and Contact Info

Position	Name	Email	Phone
President	Kären Johansson (acting)	johans161@gmail.com	831-247-3063
Vice President	Pat Paramoure	patsunicorn@sbcglobal.net	831-465-9809
Treasurer	Kevin Hildreth	kevinhildreth59@gmail.com	831-431-6905
Outreach Coordinator	Kären Johansson	johans161@gmail.com	831-247-3063
Secretary	Open		
Membership Coordinator	Kevin Hildreth (acting)	kevinhildreth59@gmail.com	831-431-6905
Professional Advisor	Tsim Schneider	tdschnei@ucsc.edu	
Newsletter Editor	Mary Gerbic	editorscan@gmail.com, mgerbic@yahoo.com	831-331-7173

### Coffee, Tea and History

## Mystery of the Lumber Mill



*What happened to the Loma Prieta Mill in Nisene Marks Park? Is it gone or is it hiding?*

*Professor Marco Meniketti will present the results of 3 years research at the mill sight.*

**Saturday, April 14th**

**2:00pm to 3:30 pm**

*Rio Sands Hotel Community Room, 116 Aptos Beach Dr*

**\$20** general, **\$15** members

*Donation benefits the Museum*

**Reservations required (831) 688-1467**



**Aptos History Museum**

