MINUTE ITEM
This Calendar Item No. C114
was approved as Minute Item
No. 114 by the State Lands
Commission by a vote of 3
to Ø at its 11/15/94
meeting.

CALENDAR ITEM

C114

A 34, 65, 80

S 14, 17, 31, 37

11/15/94
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CALIFORNIA DESERT PROTECTION ACT

PARTY:

State Lands Commission
1807 13th Street
Sacramento, California 95814

BACKGROUND:

After more than eight years of consideration, Congress finally passed a California Desert Protection Act this year. President Clinton signed the measure into law (PL 103-433) on October 31, 1994. The Act provides for:

- Expansion of Death Valley National Monument and its designation as a national park.
- Expansion of Joshua Tree National Monument and its designation as a national park.
- Creation of the East Mojave National Reserve.
- Classification of an additional 3.5 million acres of public land in the California desert as protected wilderness.

All of this is of concern to the State Lands Commission since 330,000 acres of State school lands are enclosed within the wilderness areas and expanded national parks and preserve established under the measure. Commission staff has worked with the Congressional authors and committee staff to assure prompt transfer of these school lands to the federal government for protection under the Act. Section 707 of the Act provides for exchange of the school lands for federal property identified as surplus and having equal value.

Pursuant to Section 707, the Commission is to request the Secretary of the Interior to enter into negotiations for an agreement to make these exchanges. Federal mineral lands which have the potential for commercial development, but which are not leased or producing federal mineral revenues are included. Also to be considered for exchange to the Commission are claims of the

Bureau of Reclamation not needed for any Bureau project and other lands of the Department suitable for disposal. In addition, any other federal land which becomes surplus may be considered except military bases to be closed under the base closure statutes.

A pertinent provision of the Act also provides that no federal agency may dispose of surplus property in the State until after the Secretary of the Interior is notified, the Secretary notifies the Commission and the Commission, within six months of notice, has not advised the Secretary of interest in that surplus property.

With enactment of the California Desert Protection Act, Commission staff must now begin to work on implementing its provisions and acquiring income producing property for the State Teachers Retirement Fund.

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. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 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 CEQA and the State CEQA Guidelines.

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

EXHIBITS:

A. Sec. 707, PL 103-433 (108 Stat. 4471)
B. Site Map

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE STAFF TO:

1. MAKE THE NECESSARY REQUEST TO THE SECRETARY OF THE INTERIOR TO ENTER INTO AN AGREEMENT TO EXCHANGE FEDERAL LANDS FOR STATE SCHOOL LANDS WITHIN THE AREA AFFECTED BY THE CALIFORNIA DESERT PROTECTION ACT.

2. NEGOTIATE AN EXCHANGE AGREEMENT WITH THE SECRETARY AND PRESENT THAT AGREEMENT FOR COMMISSION APPROVAL.

3. WORK DIRECTLY WITH THE DEPARTMENT OF INTERIOR AS NECESSARY TO IDENTIFY FEDERAL LANDS SUITABLE FOR EXCHANGE TO PRODUCE REVENUE FOR THE STATE TEACHERS RETIREMENT FUND.

4. NEGOTIATE SPECIFIC EXCHANGES WHICH IN THE AGGREGATE HAVE EQUAL VALUE TO THE SCHOOL LANDS TO BE GIVEN UP TO THE FEDERAL GOVERNMENT, SUCH EXCHANGES TO BE PRESENTED TO THE COMMISSION FOR APPROVAL.

5. AUTHORIZE STAFF TO TAKE ALL OTHER ACTIONS NECESSARY TO EXPEDITIOUSLY IMPLEMENT THE PROVISIONS OF THE CALIFORNIA DESERT PROTECTION ACT.

of this Act. The priority of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 44 U.S.C. 666), commonly referred to as the McCarran Amendment.

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water right reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness area located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

SEC. 707. CALIFORNIA STATE SCHOOL LANDS.

(a) NEGTIATIONS TO EXCHANGE.—Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School lands or interests therein which are located within the boundaries of one or more of the wilderness areas or park system units designated by this Act (hereinafter in this section referred to as "State School lands."). The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management act of 1976.

(b) PREPARATION OF LIST.—Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a list of the following:

(1) State School lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park system units designated by this Act.

(2) Lands within the State of California under the jurisdiction of the Secretary that the Secretary determines to be suitable for disposal for exchange, identified in the following priority—

(A) lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues;

(B) Federal claims in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project; and

(C) any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in the Secretary's discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(4) The Secretary shall maintain such list and shall annually transmit such list to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives until all of the State School lands identified in paragraph (1) have been acquired.

(c) DISPOSAL OF SURPLUS FEDERAL PROPERTY.—(1) Effective upon the date of enactment of this title and until all State School lands identified in paragraph (b)(1) of this section are acquired, no Federal lands or interests therein within the State of California may be disposed of from Federal ownership unless—

(A) the Secretary is notified of the availability of such lands or interest therein;

(B) the Secretary has notified the Commission of the availability of such lands or interests therein for exchange; and

(C) the Commission has not notified the Secretary within six months that it wishes to consider entering into an exchange for such lands or interests therein.

(2) If the Commission notifies the Secretary that it wishes to consider an exchange for such lands or interests therein, the Secretary shall attempt to conclude such exchange in accordance with the provisions of this section as quickly as possible.

(3) If an agreement is reached and executed with the Commission, then upon notice to the head of the agency having administrative jurisdiction over such lands or interests therein, the Secretary shall be vested with administrative jurisdiction over such land or interests therein for the purpose of concluding such exchange.

(4) Upon the acquisition of all State School lands or upon notice by the Commission to the Secretary that it no longer has an interest in such lands or interests therein, such lands or interests shall be released to the agency that originally had jurisdiction over such lands or interests for disposal in accordance with the laws otherwise applicable to such lands or interests.

(d) NO EFFECT ON MILITARY BASE CLOSURES.—The provisions of this section shall not apply to the disposal of property under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; 10 U.S.C. 2687 note) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 104 Stat. 1808; 10 U.S.C. 2687 note).

SEC. 708. ACCESS TO PRIVATE PROPERTY.

The Secretary shall provide adequate access to nonfederally owned land or interests in land within the boundaries of the conservation units and wilderness areas designated by this Act which will provide the owner of such land or interest the reasonable use and enjoyment thereof.

SEC. 709. FEDERAL FACILITIES FEE EQUITY.

(a) POLICY STATEMENT.—It is the intent of Congress that entrance, tourism or recreational use fees for use of Federal lands and facilities not discriminate against any State or any region of the country.

(b) FEE STUDY.—The Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1996 to the Committee on energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall—

(1) identify all Federal lands and facilities that provide recreational or tourism use; and

(2) analyze by State and region any fees charged for entrance, recreational or tourism use, if any, on Federal lands or facilities in a State or region, individually and collectively.

(c) RECOMMENDATIONS.—Following completion of the report in subsection (b), the Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1997 to the Committee on Energy and Natural Resource of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall contain recommendations which the Secretary deems appropriate for implementing the congressional intent outlined in subsection (a).

SEC. 710. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this Act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 711. DEFINITION.

Any reference to the term "this Act" in titles I through IX shall be deemed to be solely a reference to sections 1 and 2, and titles I through IX.

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS.

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

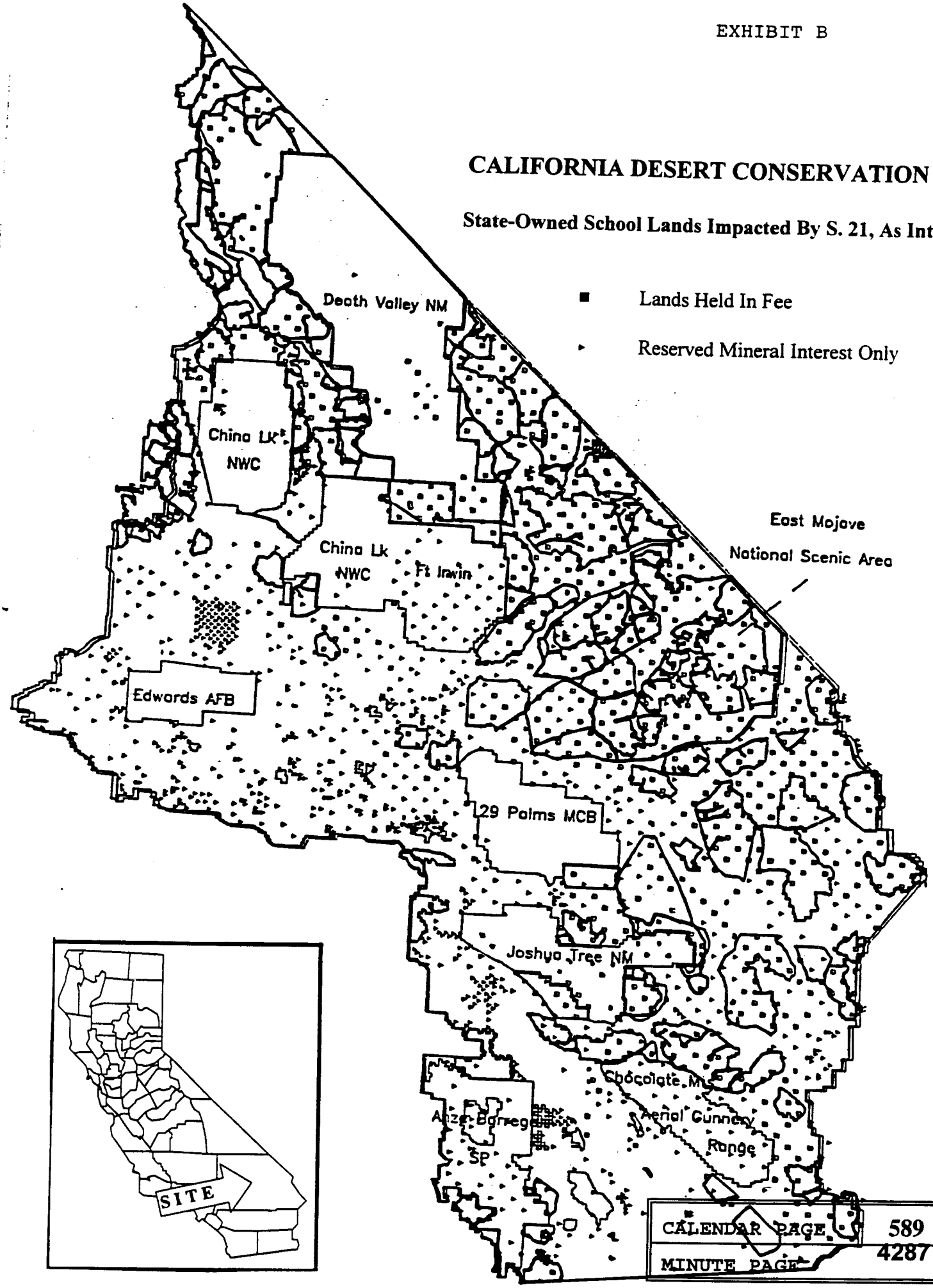
(2) the National Park System units and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

EXHIBIT B

CALIFORNIA DESERT CONSERVATION AREA

State-Owned School Lands Impacted By S. 21, As Introduced



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