MINUTE ITEM
This Calendar Item No. C71 was approved as Minute Item No. 71 by the California State Lands Commission by a vote of 3 to Ø at its 9-17-01 meeting.

CALENDAR ITEM
C71

A 26

S 12

09/17/01
W 25787
J. Frey

CESSION OF CONCURRENT CRIMINAL JURISDICTION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 126 AT UNITED STATES PENITENTIARY, ATWATER, MERCED COUNTY

Pursuant to Government Code Section 126 the State Lands Commission is authorized on behalf of the State of California to cede concurrent criminal jurisdiction to the United States upon finding:

a. the land is held for the erection of forts, arsenals and other needful buildings, or other public purpose within the purview of Clause 17 of Section 8 of Article 1 of the United States Constitution;

b. the cession is in compliance with the laws of the United States;

c. the United States has in writing requested such cession; and

d. the State reserves jurisdiction over the land for purposes of water acquisition and management.

e. the United States has agreed to compensate the State for costs incurred in processing the cession.

Presently, the United States has proprietorial legislative jurisdiction over the United States Penitentiary, Atwater, California. By letter dated July 26, 2001 the United States has requested that the State of California cede concurrent criminal legislative jurisdiction over these facilities for five years. The United States believes that "Concurrent criminal jurisdiction is urgently needed to allow the United States to conduct federal investigations and prosecutions of certain criminal offenses that may occur on the land. In particular, we believe it is mutually desirable, and in the interests of sound administration of federal penal institutions, that the United States have concurrent criminal jurisdiction with the State of California as to this site."

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A noticed public hearing was held on August 24, 2001. Notice of the hearing was published as required by Section 126 and served upon the Clerk of the Board of Supervisors for Merced County. Affidavits of the publication and service are found in the Commission's files. No comments in opposition to the cession were received.

The Commission staff believe that the cession of concurrent criminal jurisdiction is in the best interest of the State of California in connection with the exercise of criminal jurisdiction over these facilities.

EXHIBITS:

A. Land Description

IT IS RECOMMENDED THAT THE COMMISSION:

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

2. DETERMINE THAT THE PUBLIC HEARING HELD ON AUGUST 24, 2001 COMPLIED WITH GOVERNMENT CODE SECTION 126 AND THE REGULATIONS DEALING WITH CESSION OF CONCURRENT CRIMINAL JURISDICTION AND THAT THE FOLLOWING REQUIREMENTS HAVE BEEN SATISFIED:

   A. THE UNITED STATES HAS REQUESTED IN WRITING THAT THE STATE OF CALIFORNIA CEDE CONCURRENT CRIMINAL JURISDICTION OVER THE LANDS DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, SAID LANDS BEING WITHIN THE STATE OF CALIFORNIA.

   B. THE LANDS ARE HELD BY THE UNITED STATES FOR THE ERECTION OF FORTS, MAGAZINES, ARSENALS, DOCKYARDS AND OTHER NEEDFUL BUILDINGS OR OTHER PUBLIC PURPOSE WITHIN THE PURVIEW OF CLAUSE 17 OF SECTION 8 OF ARTICLE 1 OF THE CONSTITUTION OF THE UNITED STATES.

   C. THE LANDS WERE ACQUIRED BY THE UNITED STATES BY PURCHASE OR WERE WITHDRAWN FROM THE PUBLIC DOMAIN.

   D. JURISDICTION CEDED HEREIN SHALL CONTINUE FOR THE LESSER OF FIVE YEARS OR SO LONG AS THE UNITED STATES OWNS THE LANDS.

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E. IN CEDING CONCURRENT CRIMINAL JURISDICTION THE LEGISLATURE AND THE STATE RESERVE JURISDICTION OVER THE LAND, WATER AND USE OF WATER WITH FULL POWER OF CONTROL AND REGULATE THE ACQUISITION, USE, CONTROL AND DISTRIBUTION OF WATER WITH RESPECT TO THE LAND AFFECTED BY SUCH CESSION.

F. IN CEDING CONCURRENT CRIMINAL JURISDICTION THE LEGISLATURE AND THE STATE EXCEPT AND RESERVE TO THE STATE ALL DEPOSITS OF MINERALS, INCLUDING OIL AND GAS, IN THE LAND, AND THE RIGHT TO PROSPECT FOR, MINE, AND REMOVE SUCH DEPOSITS FROM THE LAND.

G. THE CESSION IS PURSUANT TO AND IN COMPLIANCE WITH THE LAWS OF THE UNITED STATES.

H. THE UNITED STATES HAS AGREED TO COMPENSATE THE STATE FOR ITS COSTS INCURRED IN PROCESSING THE CESSION.

3. DETERMINE THAT A CESSION OF CONCURRENT CRIMINAL JURISDICTION OVER THE LANDS DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF IS IN THE BEST INTERESTS OF THE STATE OF CALIFORNIA BECAUSE THE UNITED STATES WILL THEN HAVE THE AUTHORITY TO CONDUCT FEDERAL INVESTIGATIONS AND PROSECUTIONS OF CRIMINAL OFFENSES AT THIS FACILITY.

4. DETERMINE THAT THE UNITED STATES HAS AGREED TO PAY FOR THE COSTS INCURRED IN THE CESSION PROCESS.

5. CEDE CONCURRENT CRIMINAL JURISDICTION OVER THE UNITED STATES PENITENTIARY, ATWATER, MERCED COUNTY FOR THE LESSER OF FIVE YEARS OR SO LONG AS THE UNITED STATES OWNS THE LANDS.

6. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE A CERTIFICATE OF CESSION OF CONCURRENT CRIMINAL JURISDICTION AND HAVE IT RECORDED IN THE OFFICIAL RECORDS FOR MERCED COUNTY.

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EXHIBIT A

UNITED STATES PENITENTIARY, ATWATER, MERCED COUNTY
Land Description for Jurisdictional Purposes

LEGAL DESCRIPTION FOR A PORTION OF CASTLE AIR FORCE BASE FOR THE U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, DESIGNATED AS FEDERAL TRANSFER SITES B1, B2, B3, B4, AND B5.

A PORTION OF SECTIONS 20, 21, 28, AND 29, TOWNSHIP 6 SOUTH, RANGE 13 EAST, MOUNT DIABLO BASE AND MERIDIAN SITUATE IN THE COUNTY OF MERCED STATE OF CALIFORNIA, MORE PARTICULATY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 28; THENCE SOUTH 89° 38' 37" WEST ALONG THE CENTERLINE OF LADINO AVENUE AND THE SOUTH LINE OF SAID SECTION 28, A DISTANCE OF 2555.33 FEET; THENCE NORTH 38° 19' 53" WEST, A DISTANCE OF 345.83 FEET; THENCE NORTH 02° 29' 05" EAST, A DISTANCE OF 279.06 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 110.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGHT A CENTRAL ANGEL OF 90° 16' 20", A DISTANCE OF 173.31 FEET; THENCE NORTH 87° 47' 15" WEST, A DISTANCE OF 72.59 FEET TO THE BEGINNING OF A CURVE CONVACE TO THE NORTHEAST, HAVING A RADIUS OF 330.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 49° 27' 22", A DISTANCE OF 284.85 FEET; THENCE NORTH 38° 19' 53" WEST A DISTANCE OF 7396.96 FEET TO THE NORTH LINE OF LOT 45 AS SHOWN ON THE MAP OF LIBERTY COLONY, RECORDED IN VOLUME 7 OF OFFICIAL PLATS AT PAGE 70, MERCED COUNTY RECORDS; THENCE NORTH 89° 54' 45" EAST ALONG THE NORTH LINE OF LOTS 45-52 INCLUSIVE, OF SAID MAP, A DISTANCE OF 5278.45 FEET TO THE EAST LINE OF SAID SECTION 20; THENCE SOUTH 02° 31' 38" WEST ALONG SAID EAST LINE, A DISTANCE OF 704.91 FEET TO A CONCRETE MONUMENT WITH A BRASS CAP AS SHOWN ON THE MAP ENTITLED SEGMENT "B" REAL ESTATE CASTLE AIR FORCE BASE MILTARY RESERVATION; THENCE SOUTH 38° 17' 50" EAST, A DISTANCE OF 4133.09 FEET TO A CONCRETE MONUMENT WITH A BRASS CAP AND THE EAST LINE OF THE WEST HALF OF SAID SECTION 28; THENCE SOUTH 00° 51' 00" WEST (THE BASIS OF BEARINGS). ALONG THE EAST LINE OF THE WEST HALF OF SAID SECTION 28, A DISTANCE OF 2639.65 FEET TO THE POINT OF BEGINNING.
ASSESSORS PARCEL NO: 52-170-01 PORTION PARCEL 1; 52-140-05 PORTION PARCEL 1; 52-180-02 PARCEL 3 & 4 AND PORTION PARCEL 1; 52-100-08 PARCEL 2

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