MINUTE ITEM
This Calendar Item No C37 was approved as Minute Item No. 37 by the California State Lands Commission by a vote of 2 to 0 at its 10-20-05 meeting.

CALENDAR ITEM
C37

S 12, 15

A 27, 28

10/20/05
W20902
J. Frey

CESSION OF CONCURRENT CRIMINAL JURISDICTION PURSUANT TO GOVERNMENT CODE SECTION 126 AT PINNACLES NATIONAL MONUMENT, MONTEREY AND SAN BENITO COUNTIES

APPLICANT:

U. S. National Park Service
1111 Jackson St., Suite 700
Oakland, CA 94607

BACKGROUND:

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 presently has concurrent criminal legislative jurisdiction over Pinnacles National Monument in Monterey and San Benito Counties. The cession of jurisdiction over this facility was the subject of Commission action on September 19, 2000 and was effective on various dates for a five year period beginning in November and December 2000.

By letter dated June 23, 2005 the United States acting through the National Park Service has requested that the State of California renew its cessions of concurrent criminal legislative jurisdiction over this facility for another five years.

The United States believes that concurrent criminal jurisdiction is needed to allow the United States to conduct federal investigations and prosecutions of certain criminal offenses that may occur on its lands. A noticed public hearing was held on August 3, 2005 and a recommendation was made to the Commission that the cession be granted. The Commission granted the requested cession at its meeting on August 8, 2005.

Since the Commission's meeting on August 8, 2005, it has come to the attention of staff that there was a defect in the notification process as required by the Government Code. Because of this defect, staff has conducted another public hearing and ensured that the notification process was done properly. Notice of the hearing was published as required by Section 126 and served upon the Clerk of the Board of Supervisors for Monterey and San Benito Counties. Affidavits of the publication and service are found in the Commission's files. No comments in opposition to the proposed cession were received.

The Commission staff believes 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 this National Park facility.

STATUTORY AND OTHER REFERENCES:

A. Government Code Section 126.
B. Cal. Code of Regs.: Title 2, Div.3; Title 14, Div. 6.
C. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code of Regs 15061), the staff has determined that this activity is exempt from the requirements of CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines. Authority: Public Resources Code Section 21065 and 14 Cal. Code of Regs. 15378.

PERMIT STREAMLINING ACT DEADLINE: N/A

EXHIBIT: A. Land Description – Pinnacles National Monument, Monterey and San Benito Counties

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 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 OCTOBER 4, 2005 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 EXHIBITS "A - F" ATTACHED AND BY REFERENCE MADE A PART HEREOF, SAID LANDS BEING WITHIN THE STATE OF CALIFORNIA.

   B. THE LANDS ARE OWNED BY THE UNITED STATES AND HELD 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. JURISDICTION CEDED HEREIN SHALL CONTINUE FOR THE LESSER OF FIVE YEARS OR SO LONG AS THE UNITED STATES OWNS THE LANDS.

   D. 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.

E. 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.

F. THE CESSION IS PURSUANT TO AND IN COMPLIANCE WITH FEDERAL LAW AND THE UNITED STATES HAS AGREED TO ACCEPT THE CESSION SUBJECT TO THE CONDITIONS REFERENCED IN GOVERNMENT CODE SECTION 126.

G. THE UNITED STATES HAS AGREED TO COMPENSATE THE STATE FOR ITS COSTS INCURRED IN PROCESSING THE CESSIONS.

3. DETERMINE THAT 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 CRIMINAL INVESTIGATIONS AND MAKE PROSECUTIONS OF CRIMINAL OFFENSES ON THESE LANDS.

4. CEDE CONCURRENT CRIMINAL JURISDICTION FOR THE LESSER OF FIVE YEARS OR SO LONG AS THE UNITED STATES OWNS PINNACLES NATIONAL MONUMENT IN MONTEREY AND SAN BENITO COUNTIES AS DESCRIBED IN EXHIBIT "A" HERETO.

5. AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A CERTIFICATE OF CESSION OF CONCURRENT CRIMINAL JURISDICTION FOR PINNACLES NATIONAL MONUMENT AND HAVE IT RECORDED IN THE OFFICIAL RECORDS FOR MONTEREY AND SAN BENITO COUNTY.

EXHIBIT A

PINNACLES NATIONAL MONUMENT

All the land known as Pinnacles National Monument located in Monterey and San Benito Counties as created by presidential proclamation set forth in #796 dated January 16, 1908 (35 Stat. 2177), and supplemented by the following proclamations: #1660, May 7, 1923 (43 Stat.1911); #1704, July 2, 1924 (43 Stat. 1961); #1948, April 13, 1931 (45 Stat. 2451); #2050, July 11, 1933 (48 Stat. 1701); #2528, December 5, 1941 (55 Stat. 1709); and # 7266, January 11, 2000 (65 F.R. 2831).