

Calendar Item

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Consideration of Transfer of Legislative Jurisdiction
Pursuant To California Government Code Sections 113 and 126
Over Lands Within the Golden Gate National Recreation Area and Muir Woods National
Monument, Marin and San Francisco Counties

APPLICANT:

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

BACKGROUND:

The United States has asked the State Lands Commission to cede concurrent criminal legislative jurisdiction over certain lands now under proprietorial legislative jurisdiction within the Golden Gate National Recreation Area (GGNRA) and Muir Woods National Monument and to accept a retrocession of exclusive legislative jurisdiction over other lands within the GGNRA and establish concurrent legislative jurisdiction over them. The subject lands are located in Marin and San Francisco Counties. (See Exhibit G for types of legislative jurisdiction.) If the request is granted, the United States will have uniform concurrent criminal legislative jurisdiction over all of the lands within the GGNRA and Muir Woods and concurrent civil legislative jurisdiction over a portion of the lands within the GGNRA. This will allow the United States to conduct criminal investigations and prosecute both federal and state crimes committed on federal lands.

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

- a. the lands are owned or leased by the United States and are 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.

California Government Code Section 113 authorizes the State Lands Commission to accept a retrocession of exclusive legislative jurisdiction and to establish concurrent legislative jurisdiction if the following conditions are met:

1. The United States has in writing requested that the State accept a retrocession of jurisdiction;
2. The State Lands Commission has held a public hearing to determine whether it is in the State's best interests to accept the retrocession; and
3. The United States has agreed to pay for the costs associated with the retrocession process.

The United States owns thousands of acres of land within Marin and San Francisco Counties known as the Golden Gate National Recreation Area (GGNRA) and Muir Woods National Monument. These lands were acquired by purchase or condemnation. The United States presently exercises proprietorial legislative jurisdiction over all of these lands.

The United States also holds title to lands formerly dedicated to military use in Marin County – Fort Baker, Fort Barry and Fort Cronkite and to tide and submerged lands adjacent to these military lands extending from the high water mark out to three hundred yards beyond low water mark granted by the State of California pursuant to Statutes of 1897, Chapter 81. The United States exercises exclusive legislative jurisdiction over these tide and submerged lands and their adjacent former military lands pursuant to Statutes of 1859, Chapter 305.

The United States also owns tide and submerged lands pursuant to Statutes of 1897 Chapter 81 adjacent to the Presidio of San Francisco, Fort Mason and Alcatraz Island in San Francisco County and exercises exclusive legislative jurisdiction over them. (The lands and facilities above the ordinary high water mark are not a part of this action.)

Finally the United States leases tide and submerged lands from the State Lands Commission along the coastline of Marin and San Francisco Counties. The United States exercises proprietorial legislative jurisdiction over these tide and submerged lands.

In another Calendar Item being considered by the Commission at this meeting, the lease between the Commission and the United States for the tidelands mentioned

above is being terminated and a new lease issued. Among its terms will be the modification of the leased premises to include a 1320 strip of tide and submerged lands along the coast of San Francisco and Marin Counties. This Calendar Item will cede concurrent criminal jurisdiction over this strip for the lesser of five years or so long as the United States leases the lands.

By letter dated March 8, 2007 and January 13, 2009 the United States acting through the National Park Service has requested that the State of California cede concurrent criminal legislative jurisdiction over GGNRA lands in both counties and Muir Woods National Monument presently under proprietary legislative jurisdiction. Included within this request are the tide and submerged lands leased by the State Lands Commission to the GGNRA. Such a cession would be for the lesser of five years or so long as the United States owns the property.

The United States also requests that the Commission accept a retrocession of exclusive legislative jurisdiction and establish concurrent criminal and civil legislative jurisdiction over federally owned tide and submerged lands and former military lands in Marin and San Francisco Counties.

The United States believes that concurrent criminal legislative jurisdiction is needed to allow the United States to conduct investigations and prosecutions of certain criminal offenses that may occur on its lands and that such enforcement will benefit both the United States and the State of California.

Pursuant to Government Code Sections 113 and 126 a combined noticed public hearing was held on May 5, 2009. No members of the public appeared at the hearing and no adverse comments were received.

The Commission staff believes that the cession of concurrent criminal legislative jurisdiction and the acceptance of a retrocession and subsequent establishment of concurrent legislative jurisdiction is in the best interests of the State of California in connection with the exercise of criminal jurisdiction over the GGNRA and Muir Woods National Monument.

All of the lands referenced above are depicted on a 14 sheet series of plats entitled Golden Gate National Recreation Area Jurisdiction Plats which are on file with the State Lands Commission and the National Park Service.

STATUTORY AND OTHER REFERENCES:

- A. Government Code Sections 113 and 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 Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State

CEQA Guidelines.

Authority: Public Resources Code Section 21065 and Title 14 California Code of Regulations, sections 15060(c)(3) and 15378.

PERMIT STREAMLINING ACT DEADLINE: N/A

- EXHIBIT:**
- A. Location Map
 - B. Cession of Concurrent Criminal Legislative Jurisdiction: Golden Gate National Recreation Area, San Francisco County
 - C. Retrocession of Exclusive Jurisdiction and Establishment of Concurrent Criminal Jurisdiction: Golden Gate National Recreation Area, San Francisco County
 - D. Cession of Concurrent Criminal Jurisdiction: Golden Gate National Recreation Area, Marin County
 - E. Retrocession of Exclusive Jurisdiction and Establishment of Concurrent Criminal Jurisdiction: Golden Gate National Recreation Area, Marin County
 - F. Cession of Concurrent Criminal Jurisdiction: Muir Woods National Monument, Marin County
 - G. Types of Legislative Jurisdiction

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. DETERMINE THAT THE PUBLIC HEARING HELD ON MAY 5, 2009 COMPLIED WITH GOVERNMENT CODE SECTION 126 AND THE COMMISSION'S REGULATIONS DEALING WITH THE 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 B, D AND F ATTACHED AND BY REFERENCE MADE A PART HEREOF, SAID LANDS BEING WITHIN THE STATE OF CALIFORNIA.
 - B. THE LANDS ARE OWNED OR LEASED 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 OR LEASES 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 TO 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 EXHIBITS B, D AND F 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 THE LANDS WITHIN THE GOLDEN GATE NATIONAL RECREATION AREA AND MUIR WOODS NATIONAL MONUMENT IN MARIN AND SAN FRANCISCO COUNTIES AS DESCRIBED IN EXHIBITS B, D AND F HERETO.
 - 5. AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A CERTIFICATE OF CESSION OF CONCURRENT CRIMINAL LEGISLATIVE JURISDICTION OVER THE LANDS DESCRIBED IN EXHIBITS B, D AND F IN GOLDEN GATE NATIONAL RECREATION AREA AND MUIR WOODS NATIONAL MONUMENT AND HAVE IT RECORDED IN THE OFFICIAL RECORDS FOR MARIN AND

SAN FRANCISCO COUNTIES.

6. DETERMINE THAT THE PUBLIC HEARING HELD ON MAY 5, 2009 COMPLIED WITH GOVERNMENT CODE SECTION 113 AND THE COMMISSION'S REGULATIONS DEALING WITH THE RETROCESSION OF EXCLUSIVE LEGISLATIVE JURISDICTION AND THAT THE FOLLOWING REQUIREMENTS HAVE BEEN SATISFIED:
 - A. THE UNITED STATES HAS REQUESTED IN WRITING THAT THE STATE OF CALIFORNIA ACCEPT A RETROCESSION OF EXCLUSIVE JURISDICTION AND ESTABLISH CONCURRENT CRIMINAL AND CIVIL JURISDICTION OVER THE LANDS WITHIN THE GOLDEN GATE NATIONAL RECREATION AREA AS DESCRIBED IN EXHIBITS C AND E HERETO;
 - B. THAT THE UNITED STATES HAS AGREED TO PAY THE COSTS ASSOCIATED WITH PROCESSING THE RETROCESSIONS.
7. FIND THAT A RETROCESSION OF EXCLUSIVE JURISDICTION AND THE ESTABLISHMENT OF CONCURRENT CRIMINAL AND CIVIL JURISDICTION IS IN THE BEST INTERESTS OF THE STATE.
8. ACCEPT A RETROCESSION OF EXCLUSIVE JURISDICTION AND ESTABLISH CONCURRENT CRIMINAL AND CIVIL JURISDICTION OVER THE LANDS WITHIN THE GOLDEN GATE NATIONAL RECREATION AREA DESCRIBED IN EXHIBITS C AND E HERETO.
9. AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A CERTIFICATE OF RETROCESSION OF EXCLUSIVE JURISDICTION AND ESTABLISHMENT OF CONCURRENT CRIMINAL AND CIVIL JURISDICTION OVER THE LANDS WITHIN THE GOLDEN GATE NATIONAL RECREATION AREA DESCRIBED IN EXHIBITS C AND E AND HAVE IT RECORDED IN THE OFFICIAL RECORDS FOR MARIN AND SAN FRANCISCO COUNTIES.