

**CALENDAR ITEM  
C43**

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08/20/10

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A 33

J.Frey

**RETROCESSION OF PARTIAL LEGISLATIVE JURISDICTION  
PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 113  
AT VANDENBERG AIR FORCE BASE, SANTA BARBARA COUNTY**

Pursuant to Government Code Section 113 the State Lands Commission is authorized on behalf of the State of California to accept a retrocession of legislative jurisdiction from the United States and thereby establish state legislative jurisdiction.

**BACKGROUND:**

The Department of the Air Force has requested that California accept a retrocession of partial legislative jurisdiction and establish proprietary legislative jurisdiction over a 71.33 acre parcel which is the proposed site of the California Space Center. The parcel is located near California State Highway 1 close to the main entrance of the Vandenberg Air Force Base. The California Space Authority, a California 501(c)(6) nonprofit corporation formed pursuant to California Government Code Sections 13999–13999.4, desires to lease the 71.33 acre parcel from the Air Force for the establishment of the California Space Center to promote space-related education, training and industry. Acceptance of the retrocession of jurisdiction would establish the Air Force's proprietary jurisdiction over the 71.33 acre parcel.

The United States acquired partial legislative jurisdiction over this parcel by cession from California in 1941. Under partial legislative jurisdiction the United States exercises all of the State's authority to enact and enforce civil and criminal law except for the State's power to tax. After the retrocession of partial jurisdiction and establishment of proprietary jurisdiction, the United States will continue to own the property and all civil and criminal law enforcement on it will be determined by California law. Recognition should be given to the fact that the United States, by virtue of its functions and authority under various provisions of the U. S. Constitution, has many powers and immunities not possessed by ordinary landholders with respect to areas in which it acquires an interest, and of the further fact that all its properties and functions are held or performed in a governmental rather than a proprietary capacity. This may impact California's ability to enact and enforce certain laws involving this parcel.

California Government Code Section 113 and the California Code of Regulations, Title 2, Sections 2700 et seq. authorize the State Lands Commission to accept such a retrocession if the following conditions are met:

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1. The United States has requested in writing 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.

By letter dated July 19, 2010 the United States made the written request for the retrocession. Commission staff believed that wording of the original request was not completely clear. On August 4, 2010, Kenneth Barrett, legal counsel for Air Force, sent a letter clarifying that the United States desires California to accept a retrocession of partial legislative jurisdiction and establish United State's proprietary jurisdiction over the 71.33 acre parcel. The United States also agreed to bear the costs associated with the retrocession. Those costs were ultimately borne by the California Space Authority. The noticed hearing was held on August 13, 2010. Laura Ornelaz representing the Air Force attended the hearing by telephone. The letters from the United States were entered into the record. No comments in support of or opposition to the retrocession were received in writing.

**PERMIT STREAMING ACT DEADLINE: NA**

### **OTHER PERTINENT INFORMATION:**

1. The Santa Barbara County Sheriff's Office, which is the local law enforcement agency that would be responsible for the 71.33 acre parcel after the retrocession, does not oppose the retrocession of partial legislative jurisdiction.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15060(c)), the staff has determined that this activity is exempt from the requirements of the CEQA because this activity is not a "project" as defined by the State CEQA Guidelines.

Authority: Public Resources Code Section 21065 and 14 California Code of Regulations Section 15378.

### **EXHIBIT:**

A: Land Description

### **IT IS RECOMMENDED THAT THE COMMISSION:**

1. Find that the activity is exempt from the requirements of the CEQA pursuant to

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- 14 Cal. Code Regs. 15060(c)(3) because the activity is not a project as defined by P.R.C. section 21065 and 14 Cal. Code Regs. 15378.
2. Find that the U.S. Department of the Air Force has requested in writing that the Commission accept a retrocession of partial legislative jurisdiction and establish proprietary legislative jurisdiction over 71.33 acres of land located within the Vandenberg Air Force Base, Santa Barbara County.
  3. Find that the United States has agreed to pay for the costs of the retrocession process.
  4. Find that the statutory public hearing held on August 13, 2010 complies with the public hearing requirement of Government Code Section 113.
  5. Determine that it is in the best interests of the State of California to accept the retrocession of jurisdiction requested by the United States because the retrocession will allow state and local law enforcement to provide protection of the property and will also support the state's space enterprise economic development by encouraging space-related education, training and industry.
  6. Accept the retrocession of partial legislative jurisdiction and establish proprietary legislative jurisdiction over the 71.33 acre parcel of the Vandenberg Air Force Base, Santa Barbara County as described in Exhibit A attached.
  7. Authorize the Executive Officer to execute a document entitled "Resolution of Retrocession of Legislative Jurisdiction" describing the Commission's action.
  8. Authorize the filing of the "Resolution of Retrocession of Legislative Jurisdiction" with the Santa Barbara County Recorder as required by Government Code Section 113.