

MINUTE ITEM NO. 12

APPROVED 12/16

CALENDAR ITEM

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CEDING OF CONCURRENT JURISDICTION

Government Code Section 126 provides as follows:

"Notwithstanding any other provision of law, general or special, the Legislature of California consents to the acquisition by the United States of land within this State upon and subject to each and all of the following express conditions and reservations, in addition to any other conditions or reservations prescribed by law:

(a) The acquisition must be 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 I of the Constitution of the United States, or for the establishment, consolidation and extension of national forests under the provisions of the act of Congress approved March 1, 1911 (36 Stat. 961), known as the "Weeks Act" (16 USCS Sections 480, 500 note, 513-519, 521, 552, 563);

(b) The acquisition must be pursuant to and in compliance with the laws of the United States;

(c) The United States must in writing have requested State consent to acquire such land and subject to each and all of the conditions and reservations in this section and in Section 4 of Article XIV of the Constitution prescribed;"

(d) The conditions and reservations prescribed in subdivisions (a), (b), (c), (e), and (h) of this section must have been found and declared to have occurred and to exist, by the State Lands Commission, and the Commission must have found and declared that such acquisition is in the interest of the State, certified copies of its orders or resolutions making such findings and declarations to be filed in the Office of the Secretary of State and recorded in the Office of the County recorder of each county in which any part of the land is situate;

(e) In granting this consent, the Legislature and the State grant concurrent jurisdiction on and over the land to the United States, excepting and reserving State jurisdiction on and over the land for the execution of civil and criminal process and to enforce the laws of the State of California in all cases, and the State's entire power of taxation including that of each State agency, county, city, city and county, political subdivision or public district of or in the State; and reserve to all persons residing on such land all civil and political rights, including the right of suffrage, which they might have were this consent not given.

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(f) This consent continues only so long as the land continues to belong to the United States and is held by it in accordance and compliance with each and all of the conditions and reservations in this section prescribed.

(g) Acquisition as used in this section means: (1) lands acquired in fee by purchase or condemnation, (2) lands owned by the United States that are included in the military reservation by presidential proclamation or act of Congress, and (3) leaseholds acquired by the United States over private lands or State-owned lands.

(h) In granting this consent, 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 acquired.

(i) In granting this consent, the Legislature and the State except and reserve to the State all deposits of minerals, including oil and gas, in the land, and to the State, or persons authorized by the State, the right to prospect for, mine, and remove such deposits from the land.

The finding and declaration of the State Lands Commission provided for in subdivision (d) of this section shall be made only after a public hearing. Notice of such hearing shall be published pursuant to Section 6061 in each county in which the land or any part thereof is situated and a copy of such notice shall be personally served upon the clerk of the board of supervisors of each such county. The State Lands Commission shall make rules and regulations governing the conditions and procedure of such hearings, which shall provide that the cost of publication and service of notice and all other expenses incurred by the Commission shall be borne by the United States.

"The provisions of this section do not apply to any land or water areas heretofore or hereafter acquired by the United States for migratory bird reservations in accordance with the provisions of Sections 10680 to 10685, inclusive, of the Fish and Game Code."

On May 2, 1975, Edward H. Levi, Attorney General of the United States, on behalf of the United States Bureau of Prisons, addressed a letter to Governor Brown and the State Lands Commission requesting that the State of California cede concurrent jurisdiction over the Metropolitan Correctional Center, San Diego, California. Also submitted was a contract executed by the United States Bureau of Prisons reimbursing the State Lands Commission for all costs incurred pursuant to the request for ceding of concurrent jurisdiction. The request of the Bureau of Prisons is pursuant to 40 USC 255.

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Minute Item No. 5, Page 736, of the July 24, 1975, State Lands Commission meeting authorized a public hearing for the purpose of determining whether it was in the best interest of the State to cede concurrent jurisdiction to the United States over the lands described in the letter of May 2, 1975, from the United States Attorney General. The descriptions of the areas in question are attached to the resolution as Exhibit "A" and by reference made a part hereof.

The hearing was scheduled for September 17, 1975, at 10:00 a.m. at 1807 - 13th Street, Sacramento, California 95814. Notice of the hearing was published in the San Diego Union on August 15, 1975. Notice of Hearing was personally served on the clerk of the Board of Supervisors of San Diego County.

Said publication and service was done pursuant to Government Code Sections 126 and 6061. Affidavits of publication and service are on file in the office of the State Lands Commission and by reference made a part hereof.

Copies of the Notice of Hearing were mailed to interested parties requesting the notice. The hearing was held as noticed. No one appeared in opposition to the ceding of concurrent jurisdiction.

The following persons appeared at the hearing and offered testimony in support of the requested ceding of concurrent jurisdiction: J. D. Williams, Warden, Metropolitan Correctional Center, San Diego; Richard H. Jenkins, Assistant United States Attorney. A summary of their testimony follows:

It is deemed highly desirable that the United States have such jurisdiction in the interests of good administration of Federal penal institutions such as that here involved. Numerous administrative difficulties, for the States and for the Federal Government, can thereby be avoided. For example, if there is committed within the institution an offense which is not susceptible of adequate punishment administratively (e.g., murder), trial and punishment can be by Federal authorities, without the necessity which otherwise would arise of delivering the offender to State authorities for such purposes.

Incidents that may result in civil action would likely be filed in Federal Court, and without concurrent jurisdiction the investigative material would be in the possession of the local authorities resulting in a loss of man hours to them by their having to supply an officer to testify and present material in Federal Court.

We also feel we should make use of the investigative ability of the F.B.I. This would also aid in the appeal process by not having to involve the local authorities.

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The above summary states the position of the United States in support of this request for ceding of concurrent jurisdiction. Pursuant to California Government Code Section 126, the Commission must make a finding as to whether or not it is within the best interest of the State of California to cede concurrent jurisdiction.

EXHIBITS: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THE CEDING OF JURISDICTION HEARING HELD ON SEPTEMBER 17, 1975, COMPLIED WITH THE STATUTES AND REGULATIONS FOR CEDING OF JURISDICTION AND THAT THE FOLLOWING CONDITIONS HAVE BEEN SATISFIED:
 - A. THE UNITED STATES HAS REQUESTED IN WRITING THAT THE STATE OF CALIFORNIA CEDE CONCURRENT JURISDICTION TO THE UNITED STATES OVER METROPOLITAN CORRECTIONAL CENTER, SAN DIEGO, SAID LANDS BEING WITHIN THE STATE OF CALIFORNIA.
 - B. SAID REQUEST WAS MADE BY AN OFFICER OF THE UNITED STATES EMPOWERED BY THE UNITED STATES STATUTE TO REQUEST CESSION OF CONCURRENT JURISDICTION FROM THE STATE OF CALIFORNIA.
 - C. IN GRANTING THIS CONSENT, THE LEGISLATURE AND THE STATE GRANT CONCURRENT JURISDICTION ON AND OVER THE LAND DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, TO THE UNITED STATES, EXCEPTING AND RESERVING STATE JURISDICTION ON AND OVER THE LAND FOR THE EXECUTION OF CIVIL AND CRIMINAL PROCESS AND TO ENFORCE THE LAWS OF THE STATE OF CALIFORNIA IN ALL CASES, AND THE STATE'S ENTIRE POWER OF TAXATION INCLUDING THAT OF EACH STATE AGENCY, COUNTY, CITY, CITY AND COUNTY, POLITICAL DIVISION OR PUBLIC DISTRICT OF OR IN THE STATE; AND RESERVE TO ALL PERSONS RESIDING ON SUCH LAND ALL CIVIL AND POLITICAL RIGHTS, INCLUDING THE RIGHT OF SUFFRAGE, WHICH THEY MIGHT HAVE WERE THIS CONSENT NOT GIVEN.
 - D. IN GRANTING THIS CONSENT, 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 ACQUIRED.
2. DETERMINE THAT A CEDING OF CONCURRENT JURISDICTION OVER THE METROPOLITAN CORRECTIONAL CENTER, SAN DIEGO, IS IN THE BEST INTERESTS OF THE STATE OF CALIFORNIA.
3. AUTHORIZE THE EXECUTION ON BEHALF OF THE COMMISSION OF CESSION OF CONCURRENT JURISDICTION AND ALL OTHER DOCUMENTS NECESSARY TO MAKE IT EFFECTIVE.

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4. AUTHORIZE THE DISTRIBUTION OF CERTIFIED COPIES OF SAID
CESSION AS FOLLOWS:
- A. ONE COPY TO BE FILED WITH THE SECRETARY OF STATE,
STATE OF CALIFORNIA.
 - B. ONE COPY TO BE RECORDED IN THE OFFICE OF THE COUNTY
RECORDER OF SAN DIEGO COUNTY.
 - C. ONE COPY TO BE MAILED TO EDWARD S. LAZOWSKA, LEGISLATIVE
ASSISTANT, UNITED STATES ATTORNEY GENERAL, WASHINGTON, D.C.;
J. D. WILLIAMS, WARDEN, METROPOLITAN CORRECTIONAL CENTER,
SAN DIEGO; RICHARD H. JENKINS, ASSISTANT UNITED STATES
ATTORNEY, SACRAMENTO.

Attachment: Exhibit "A"

EXHIBIT "A"

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METROPOLITAN CORRECTIONAL CENTER
IN THE COUNTY OF SAN DIEGO
STATE OF CALIFORNIA

The Metropolitan Correctional Center is described as follows:

Beginning for the same at the intersection of the north side of F Street and the east side of State Street, said point of beginning also being the southwest corner of Lot "F" in Block 42 of New San Diego, according to map thereof made by A. B. Gray and T. D. Johns, No. 456, running thence north along the east side of State Street 290.00 feet, more or less, to a point, said point being the northwest corner of Lot "C" on the aforesaid plat, running thence in a easterly direction along the north side of Lots "C" and "J" on the aforesaid plat, 200.00 feet, more or less, to the west side of Union Street, said point being the northeast corner of Lot "J" on the aforesaid plat, thence running in a southerly direction 200.00 feet, more or less, to the intersection of the said west side of Union Street and the north side of F Street, said point also being the southeast corner of Lot "G" on the aforesaid plat, running thence in a westerly direction 200.00 feet, more or less, to the point of beginning.

Being Lots "C", "D", "E", "F", "G", "H", "I", AND "J" in Block 42 of New San Diego, City of San Diego, County of San Diego, State of California, according to map thereof made by A. B. Gray and T. D. Johns, No. 456 filed in the Office of the County Recorder of San Diego County.

END OF DESCRIPTION