

**CALENDAR ITEM
120**

A Federal

04/23/15

S Federal

S. Pemberton

**CONSIDER SUPPORTING FEDERAL LEGISLATION INTRODUCED BY SENATOR
DIANNE FEINSTEIN AND CO-SPONSORED BY SENATOR BARBARA BOXER
THAT WOULD ENACT THE CALIFORNIA DESERT CONSERVATION AND
RECREATION ACT OF 2015, WHICH WOULD AMEND AND UPDATE THE
HISTORIC CALIFORNIA DESERT PROTECTION ACT OF 1994**

INTRODUCTION:

California State Lands Commission (Commission) staff has been reviewing various legislative proposals introduced in the 114th United States Congress that impact lands and resources under the Commission's jurisdiction. This report describes S. 414, the California Desert Conservation and Recreation Act of 2015 introduced by Senator Dianne Feinstein and cosponsored by Senator Barbara Boxer, and proposes a Resolution for the Commission to consider adopting in support of this bill.

LEGISLATIVE PROPOSAL:

California Desert Conservation and Recreation Act of 2015

SUMMARY:

The California Desert Conservation and Recreation Act of 2015 would amend and update the historic California Desert Protection Act of 1994 (Public Law 103-433). The purpose of the proposed legislation is to protect additional land in the California desert and better manage California's desert resources through a careful balancing of conservation, recreation, and renewable energy development.

BACKGROUND:

In 1853, California received from the United States Congress approximately 5.5 million acres of noncontiguous lands, known as school lands, to support public education in California. These lands consisted of the 16th and 36th sections of land in each township (with the exceptions of lands reserved for public use, lands taken by private land claims, and lands known to be mineral in character). A supplementary act in 1927 extended the grant of mineral lands to the state.

CALENDAR ITEM NO. **120** (CONT'D)

Most of these lands were sold by the state in 19th century. The Commission manages the remaining school lands and resources, consisting of approximately 430,000 acres of land and 790,000 acres of reserved mineral interests where the surface estate has been sold. The majority of these remaining school lands are located in the southern California desert.

On October 31, 1994, the federal California Desert Protection Act (CDPA) became law. The CDPA designated certain lands in the California desert as wilderness and established the Death Valley and Joshua Tree National Parks, and the Mojave National Reserve. The purpose of the CDPA is to preserve areas in the California desert to protect their natural, cultural, scenic and historical values and to provide for public enjoyment of these public resources.

The boundaries of the CDPA encompass hundreds of thousands of acres of California school lands and mineral interests that are under the management authority of the Commission. Section 707 of the CDPA establishes a process for California to transfer these school lands to the federal government for protection under the CDPA and in exchange, to receive federal surplus land of equal value. This process requires the Secretary of the Interior to enter into negotiations with the Commission, upon its request, to exchange federal lands or interests for California school lands or interests that are located within the areas designed by the CDPA.

Subsequent to the enactment of the CDPA, the Commission entered into a Memorandum of Agreement (MOA) with the General Services Administration and the Department of Interior to exchange federal lands for state school lands within the area affected by the CDPA and to take all other actions necessary to expeditiously implement the provisions of the CDPA. After the MOA was executed, the Commission authorized four agreements to facilitate exchanges consistent with the provisions of Section 707 of the CDPA. Through a subsequent series of exchange transactions between the Commission and the Bureau of Land Management, the Commission has transferred state school lands to the United States with a total value of \$12,616,316. In exchange the Commission has received from the United States a total of \$14,770,991, resulting in a cumulative imbalance in favor of the United States of \$2,154,675.

Pursuant to the MOA, the General Services Administration is holding \$7,938,432.71 obtained from the sale of additional surplus federal lands. Ownership of 69 state school land parcels totaling 38,434.06 acres, more or less, with a total appraised fair market value of \$10,149,600, was transferred to the United States, acting through the federal Bureau of Land Management (BLM). The United States agreed to transfer to the Commission a payment of \$7,938,432.71 that would complete the land exchanges and

CALENDAR ITEM NO. **120** (CONT'D)

extinguish the current imbalance in favor of the United States of \$2,154,675. Before the General Services Administration could transfer the funds to the Commission, the Government Accountability Office issued an opinion questioning the Bureau's authority to use funds from the sale of surplus federal property to complete exchanges with the Commission. The legal basis for using funds from the sale of surplus federal property to complete the exchanges with the Commission remains unresolved and the \$7,938,432.71 has not been transferred to the Commission.

S. 414 amends and updates the CDPA. The bill preserves more land, sets aside off-road recreational sites, and facilitates responsible renewable energy. The main provisions of the bill are as follows: 1) create two new national monuments in Southern California; 2) designate six new BLM wilderness areas covering 250,000 acres; 3) designate 18,610 acres of BLM land in Inyo County as the Alabama Hills National Scenic Area, preserving it for continued recreational use; 4) designate 77 miles of waterways as wild and scenic rivers; 5) expand the Death Valley and Joshua Tree national parks and the Mojave National Preserve; 6) designate five existing BLM off-highway vehicle areas (covering approximately 142,000 acres of California desert) as permanent road recreation areas; and, 7) facilitate renewable energy development.

The legislation facilitates responsible renewable energy development in several ways. First, the legislation would encourage the development of new renewable energy in solar zones established by the federal government. The legislation would also require the exchange of hundreds of thousands of acres of school lands currently isolated within national parks and wilderness. This exchange would provide the state with lands that could be used for renewable energy recreation or conservation. Finally, the legislation would allow upgrades to transmission lines necessary to bring clean energy from new desert solar and wind farms to urban areas.

The provision of this legislation that is particularly beneficial to the Commission is Section 103 pertaining to California state school land. Section 103 contains provisions that would resolve the stalled land exchange between the Commission and United States and facilitate the transfer of \$7,938,432.71 to the Commission.

OTHER PERTINENT INFORMATION:

The California Desert Conservation and Recreation Act of 2015 was introduced in the Senate in February 2015, and has been referred to the Senate Committee on Energy and Natural Resources.

CALENDAR ITEM NO. **120** (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

Resolve to support the California Desert Conservation and Recreation Act of 2015 that amends and updates the historic California Desert Protection Act of 1994 by adopting the Resolution in support of S.414 attached hereto as Exhibit A.

Exhibit A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION SUPPORTING THE CALIFORNIA DESERT CONSERVATION AND RECREATION ACT OF 2015 THAT AMENDS AND UPDATES THE HISTORIC CALIFORNIA DESERT PROTECTION ACT OF 1994

WHEREAS, the California State Lands Commission has exclusive jurisdiction over sovereign lands, encompassing approximately four million acres and including the beds of California's naturally navigable rivers, lakes and streams as well as the state's tide and submerged lands that extend from the shoreline out to three miles nautical offshore along the state's more than 1,130 miles of coastline; and,

WHEREAS, the California State Lands Commission manages approximately 430,000 acres of lands originally granted to California by the Congress in 1853 to benefit public education, along with an additional 790,000 acres of reserved mineral interests where the surface estate has been sold; these lands collectively being referred to as "school lands;" and,

WHEREAS, in 1994, Congress approved the California Desert Protection Act of 1994 (Public Law 103-433) designating certain lands in the California desert as wilderness and establishing the Death Valley and Joshua Tree National Parks, and the Mojave National Reserve; and,

WHEREAS, the purpose of the California Desert Protection Act is to preserve areas in the California desert to protect their natural, cultural, scenic and historical values and to provide for public enjoyment of these lands and resources; and,

WHEREAS, the boundaries of the California Desert Protection Act encompass hundreds of thousands of acres of California school lands and mineral interests that are under the management authority of the California State Lands Commission; and,

WHEREAS, the California Desert Protection Act establishes a process for California to transfer state school lands within protected areas to the federal government for protection, and in exchange, to receive federal surplus land of equal value; and,

WHEREAS, the California State Lands Commission authorized four agreements to facilitate land exchanges pursuant to the California Desert Protection Act; and,

WHEREAS, through a series of exchange transactions between the California State Lands Commission and the Bureau of Land Management, the State Lands Commission

Exhibit A

has transferred state school lands to the United States with a total value of \$12,616,316 and received from the United States a total of \$14,770,991, resulting in a cumulative imbalance in favor of the United States of \$2,154,675; and,

WHEREAS, 69 parcels of state school land totaling 38,434.06 acres, more or less, with a total appraised fair market value of \$10,149,600, have been transferred to the United States, acting through the Bureau of Land Management, and in exchange the United States agreed to transfer to the Commission a payment of \$7,938,432.71 that would complete the land exchange and extinguish the imbalance of \$2,154,675 in favor of the United States; and,

WHEREAS, the transfer of \$7,938,432.71 from the federal government to the California State Lands Commission, which is necessary to complete the transaction, has still not occurred; and,

WHEREAS, section 103 of the California Desert Conservation and Recreation Act of 2015 addresses California State School Land and contain provisions that appear to resolve the stalled land exchange between the State Lands Commission and United States and therefore facilitate the transfer of \$7,938,432.71 to the California State Lands Commission; and,

WHEREAS, completing the stalled land exchange between the United States and the California State Lands Commission is beneficial to the United States and California and in furtherance of the provisions and purposes of the California Desert Protection Act; now therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it supports the provisions of the California Desert Conservation and Recreation Act of 2015 (S. 414), which would amend and update the historic California Desert Protection Act of 1994 (Public Law 103-433) and protect additional land in the California desert and better manage California's desert resources through a careful balancing of conservation, recreation, and renewable energy development; and be it further

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.