

Staff Report 39

APPLICANT:

U.S. National Park Service

PROPOSED ACTION:

Consider Cession of Concurrent Criminal Legislative Jurisdiction pursuant to California Government Code section 126

AREA, LAND TYPE, AND LOCATION:

Federal lands comprising the El Portal Administrative Site, adjacent to Yosemite National Park, Mariposa County.

TERM:

10 years.

BACKGROUND:

Pursuant to Government Code section 126, the Commission is authorized, on behalf of the State of California, to cede concurrent criminal legislative jurisdiction to the United States. Legislative jurisdiction is the authority to make and enforce laws within a geographic area. When the State cedes concurrent criminal legislative jurisdiction, it grants the federal government authority to enforce State criminal law over federal property yet retains its enforcement authority. The United States seeks the cession because criminal law of the United States is limited, whereas State criminal law is much more comprehensive. The State, generally, has the authority to exercise its criminal law on federal lands, but the United States cannot do the same without receiving a cession of legislative jurisdiction. This concurrent, or shared, authority provides for greater flexibility in enforcing criminal law. State or local law enforcement officials may struggle to access large or remote federal properties, such as military bases or national parks. However, if the state cedes concurrent criminal legislative jurisdiction over such properties, federal law enforcement

officials may respond to incidents, ensuring a timelier response while reducing strain on state and local officials.

The Commission may cede concurrent criminal legislative jurisdiction only upon finding:

- A. The United States has requested such cession in writing.
- B. The federal lands are held for the erection of forts, magazines, arsenals, dockyards and other needful buildings within the purview of clause 17, section 8, article I of the United States Constitution or other federal purpose.
- C. The cession is made pursuant to and in compliance with the laws of the United States.
- D. A notice of the proposed cession has been given to the clerk for the board of supervisors of the county in which the federal lands are located at least 15 days before the proposed cession.
- E. The proposed cession is in the best interests of the State of California.
- F. The United States has agreed to bear all costs and expenses incurred by the Commission in making the cession.

Upon making these findings and the Commission having made a cession, the State and the United States will equally share the State's criminal legislative jurisdiction over lands affected by the cession. The cession shall continue only so long as the lands are owned by the United States and used for the purposes for which jurisdiction is ceded or for 10 years, whichever period is less. In ceding concurrent criminal legislative jurisdiction, the State reserves its full civil legislative jurisdiction including its 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 the cession.

PROPOSED ACTION:

By letter signed by Margaret Everson, Counselor to the Secretary of the U.S. Department of the Interior, dated December 28, 2020, the United States has requested that the State of California cede concurrent criminal legislative jurisdiction over the lands at the El Portal Administrative Site, more particularly described in Exhibit A, for a 10-year period for federal purposes. The National Park Service utilizes these lands to provide administrative support for Yosemite National

Park. In its December 28 letter, the National Park Service, acting on behalf of the United States, indicated its acceptance of the proposed cession.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Government Code section 126.

STATE'S BEST INTERESTS:

Ceding concurrent criminal legislative jurisdiction over the El Portal Administrative Site to the United States will share the State's authority to make and enforce criminal law with the United States. Accordingly, the United States could independently enforce criminal law for crimes committed on these facilities instead of relying on local law enforcement to respond and enforce the law. Thus, the proposed cession would alleviate the burden on local law enforcement agencies while preserving their authority to enforce the law for crimes committed at these facilities, if needed. The Mariposa County Sheriff has provided a letter of support for the proposed cession.

CONCLUSION:

For all the reasons above, staff believes that approval of the requested cession is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the requested cession is a discretionary action by the Commission. Each time the Commission approves or rejects a cession, it exercises legislatively delegated authority. If the Commission denies the requested cession, all legislative jurisdiction will remain with the State. If the Commission approves the requested cession, the United States will share concurrent criminal legislative jurisdiction with the State but have no right to a new cession upon expiration of the requested cession.
2. This action is consistent with Strategy 3.1 of the Commission's Strategic Plan to "foster, improve, and enhance relationships, to engage the legislature, public, local, state and federal agencies, legislative grantees, Commission lessees, potential applicants, non-governmental organizations, and the regulated community."

3. Commission staff gave notice of the proposed cession to the clerk for the Board of Supervisors of Mariposa County on January 19, 2021.
4. The subject cession of jurisdiction is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

A. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

1. Find that the following requirements of Government Code section 126 have been satisfied:
 - a. The United States has requested in writing that the State cede concurrent criminal legislative jurisdiction over the lands described in Exhibit A, attached and by reference made a part hereof, within Mariposa County, State of California.
 - b. The lands are held by the United States for the erection of forts, magazines, arsenals, dockyards, and other needful buildings within the purview of clause 17 of section 8 of article I of the Constitution of the United States, or for another federal purpose.
 - c. The cession is made pursuant to and in compliance with the laws of the United States.
 - d. Notice of the proposed cession has been given to the clerk for the board of supervisors of Mariposa County, in which the federal lands are located, at least 15 days before the proposed cession.
 - e. The proposed cession is in the best interests of the State.

- f. The United States has agreed to compensate the State of California for its costs incurred in processing the cession.
2. Cede concurrent criminal legislative jurisdiction to the United States over the lands identified in Exhibit A, Mariposa County, for so long as the lands are owned by the United States and used for federal purposes or for 10 years, whichever period is less.
3. Authorize the Executive Officer or her designee to execute a Resolution of Cession of Concurrent Criminal Legislative Jurisdiction for the cession and have it recorded in the official records of Mariposa County.

EXHIBIT A

El Portal Administrative Site Description of Lands

The following described lands, situated in Mariposa County, California, and adjacent to Yosemite National Park:

Mount Diablo Meridian

T. 3 S., R. 19 E.,

Sec. 13,

lot 16, that portion lying north of the northerly right-of-way line of California Highway No. 140.

T. 3 S., R. 20 E.,

Sec. 16,

S1/2S1/2NE1/4NE1/4NE1/4,

S1/2NE1/4NE1/4,

S1/2S1/2SW1/4NW1/4NE1/4,

S1/2SE1/4NW1/4NE1/4,

S1/2NE1/4,

NW1/4, and

N1/2S1/2;

Sec. 17,

S1/2NE1/4NE1/4

S1/2N1/2, and

N1/2S1/2;

Sec. 18,

S1/2 lot 3,

S1/2NE1/4,

E1/2NW1/4,

NE1/4SW1/4,

N1/2SE1/4,

SW1/4SE1/4, and

those portions of lot 4 and the SE1/4SW1/4 lying north of the northerly right-of-way line of California Highway No. 140;

Sec. 19,

those portions of NW1/4NE1/4 and NE1/4NW1/4 lying north or west of the northerly and westerly right-of-way line of California Highway No. 140, and any portion of lot 1 which may lie north of the northerly right-of-way line of California Highway No. 140.

And being comprised of those certain tracts of land described in the following official records:

Volume 65, Page 11 of Official Records of Mariposa County, California, recorded January 14, 1959. (Tract 21-130)

Volume 64, Page 348 of Official Records of Mariposa County, California, recorded December 1, 1958. (Tract 21-131)

Public Land Order 2136 published in the Federal Register Vol. 25, No. 128, Page 6210-6211, July 1, 1960, pursuant to the Act of September 2, 1958 (72 Stat. 1772). (Tract 21-136)

Document No. 20173311 of Official Records of Mariposa County, California, recorded September 13, 2017. (Tract 21-137)

And shown upon the map numbered YOSE 104 167458 entitled "El Portal Administrative Site, Mariposa County, California, Jurisdiction Plat 01, Acquired Lands".