

MINUTE ITEM

48

06/26/85

W 23516

Frey

ACCEPTANCE OF RETROCESSION OF PARTIAL
JURISDICTION AND ESTABLISHMENT OF CONCURRENT CIVIL
JURISDICTION OVER PRIVATE LANDS AT WAWONA,
YOSEMITE NATIONAL PARK, MARIPOSA COUNTY

During consideration of Calendar Item 48 attached, the Commission acknowledged a letter from William Penn Mott, Director of the National Park Service, asking the Commission to withhold approval of Retrocession pending completion of a Memorandum of Understanding between the National Park Service and the County of Mariposa. Chairman Cory stated his understanding that the Commission would be legally precluded from conditioning approval of the retrocession on completion of the MOU. Deputy Attorney General Michael Crow verified this statement. The Commission also acknowledged a letter from Assemblyman Bill Jones, asking that no premature decision be formalized which would later jeopardize the property rights of the Wawona land owners. A letter from Assemblyman Ken Maddy was also acknowledged urging the Commission to proceed with retrocession.

The following people appeared in support of the proposed retrocession:

- 1) Mr. Charles S. Cushman
Executive Director
National Inholders Association.
- 2) Ms. Beverly Barrick
Mariposa County Board of Supervisors.
- 3) George Thomas
Resident of Wawona.
- 4) Marie Escola, President
Wawona Property Owners Association.

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Mr. Robert Bennewies, Superintendent of Yosemite National Park appeared to ask that retrocession not occur until the Memorandum of Understanding is formalized.

Mr. Doug Vagim appeared to ask that the Commission withhold a decision until a Legislative Counsel opinion is received and until litigation to resolve the state/federal jurisdiction issue is resolved.

Chief Counsel Hight referenced numerous letters of support and opposition on file in the offices of the Commission.

Upon completion of all testimony, and upon motion duly made and carried, the Resolution in Calendar Item 48 was approved as presented by a vote of 2-0.

Attachment: Calendar Item 48.

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ACCEPTANCE OF RETROCESSION OF PARTIAL
JURISDICTION AND ESTABLISHMENT OF CONCURRENT
CIVIL JURISDICTION OVER PRIVATE LANDS AT WAWONA,
YOSEMITE NATIONAL PARK, MARIPOSA COUNTY

APPLICANT: United States Department of
the Interior
National Park Service
450 Golden Gate Avenue
Box 36064
San Francisco, California 94102

Government Code Section 113 provides as follows:

"The Legislature of California hereby consents to the retrocession of jurisdiction by the United States of land within this State upon and subject to each and all of the following express conditions:

- "(a) The United States must in writing have requested State Acceptance of retrocession, and unless there is an Officer of the United States empowered by a United States statute to cede jurisdiction, said request shall be by the act of Congress; such retrocession may return all jurisdiction to the State or may provide for concurrent jurisdiction.
- "(b) When the conditions of subsection (a) of this section have been found and declared to have occurred and to exist, by the State Lands Commission, the Commission shall hold a hearing to determine whether acceptance of such retrocession is in the best interest of the State. 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

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personally served upon the Clerk of the Board of Supervisors of each county. The State Lands Commission shall make rules and regulations governing the conditions and procedure of such hearings

"(c) The determination of the State Lands Commission shall be final and jurisdiction acceptance shall become effective when certified copies of its orders or resolutions have been filed in the Office of Secretary of State and recorded in the Office of the County Recorder of each county in which any part of the land is situated."

Under Chapter 51 Statutes of 1919, the State of California ceded partial legislative jurisdiction over all lands "now or may hereafter be included in those several tracts of land in the State of California set aside and dedicated for park purposes by the United States as Yosemite National Park...." Within Yosemite National Park, there exists the Wawona Area which is comprised of federal and private land holdings.

By letter, dated January 23, 1985, Mr. Russell Dickenson of the National Park Service requested that the State of California accept a retrocession of partial civil jurisdiction and establish concurrent civil jurisdiction over private lands in the Wawona Area. There is a long history of conflict and tension between the residents of Wawona and the Park Service over land use and development. The retrocession is an attempt by the Park Service to establish a more harmonious relationship with the citizens of the area.

Pursuant to Government Code Section 113, the Commission, in March 1985, authorized public hearings to receive comments on whether it is in the State's best interests to accept the retrocession. The hearing was noticed in four newspapers and a copy was served on the Clerk of the Board of Supervisors for Mariposa County. The first hearing was held on May 4, 1985 in Yosemite National Park; the second, on May 13, 1985, in San Francisco, California. Approximately 75 people attended the hearings. In addition, the Commission has received nearly 50 letters about the retrocession. A resolution from the Mariposa County Board of Supervisors was received in support of the concept of retrocession. It was conditioned on the deputizing of county deputies by the Park Service.

CALENDAR ITEM NO. 48 (CONT'D)

Generally speaking, all parties are in favor of the retrocession. A committee consisting of two members of the County Board of Supervisors and members of the Park Service has met for several years to draw up a Memorandum of Understanding (MOU) to effectively deal with past problems and to establish regulations for future land use and development. This MOU is still in draft form and was addressed at the hearings.

Comments from the hearings and letters can be summarized as follows:

1. All parties are in favor of the concept of retrocession.
2. The National Park Service and members of the County drafting the MOU are in substantial agreement on the terms of the MOU.
3. There was conflicting testimony about how much input the County committee members have received from the public.
4. The entire Board of Supervisors, acting as a group, has not held public hearings on the MOU or adopted it.
5. There is disagreement over whether the Commission's action should precede or be simultaneous with the final form of the MOU. The National Park Service requested that the Commission make the retrocession effective after a final form of the MOU has been adopted. Supervisor Barrick and others want the retrocession to occur first.
6. Other members of the public testified they want the retrocession prior to the signing of the MOU so that the County will have more bargaining power with the Park Service. They also desire the retrocession first because they are fearful of a change of attitude by the Park Service and a subsequent withdrawal of the retrocession request.
7. Commission staff raised the question at the hearing of how problems would be dealt with if the retrocession were accepted first and there was no agreement on the MOU for a substantial time period.

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From testimony received, it appears that there is no clear mechanism in place to resolve this issue. Problems are now dealt with on an ad hoc basis. This approach would continue even though it is not completely satisfactory.

8. There is disagreement between the National Park Service and the County over whether the Park Service has jurisdiction over the Wawona Area. This dispute is based on interpretation of the 1919 Statute granting partial jurisdiction over the Yosemite.

It is the staff's position, after reviewing comments received at the hearings, that it would be in the State's best interest to make the acceptance of the retrocession effective immediately and not wait until the MOU has been finalized, since the MOU is a matter of local concern.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. DETERMINE THAT THE RETROCESSION OF JURISDICTION HEARINGS HELD ON MAY 4 AND MAY 13, 1985 COMPLIED WITH THE STATUTES AND REGULATIONS FOR RETROCESSION OF JURISDICTION AND THAT THE FOLLOWING CONDITIONS HAVE BEEN SATISFIED.

CALENDAR ITEM NO. 48 (CONT'D)

- A. THE UNITED STATES HAS REQUESTED, IN WRITING, THAT THE STATE OF CALIFORNIA ACCEPT THE RETROCESSION OF PARTIAL CIVIL JURISDICTION AND THE ESTABLISHMENT OF CONCURRENT CIVIL JURISDICTION OVER THE LANDS DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF. EXCLUSIVE CRIMINAL JURISDICTION TO REMAIN IN THE UNITED STATES.
- B. SAID REQUEST WAS MADE BY AN OFFICER OF THE UNITED STATES EMPOWERED BY THE UNITED STATES STATUTE (16 U.S.C. SEC. 1a-3) TO CEDE JURISDICTION TO THE STATE OF CALIFORNIA.
3. DETERMINE THAT A RETROCESSION OF PARTIAL CIVIL JURISDICTION AND ESTABLISHMENT OF CONCURRENT CIVIL JURISDICTION OVER THE LAND DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF IS IN THE BEST INTERESTS OF THE STATE OF CALIFORNIA. EXCLUSIVE CRIMINAL JURISDICTION IS TO REMAIN IN THE UNITED STATES.
4. ACCEPT THE RETROCESSION OF PARTIAL CIVIL JURISDICTION AND ESTABLISHMENT OF CONCURRENT CIVIL JURISDICTION OVER THE LANDS DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE APART HEREOF. EXCLUSIVE CRIMINAL JURISDICTION IS TO REMAIN IN THE UNITED STATES.
5. AUTHORIZE THE DISTRIBUTION OF CERTIFIED COPIES OF THIS CALENDAR ITEM 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 MARIPOSA COUNTY.
 - C. ONE COPY TO BE MAILED TO THE DIRECTOR OF THE NATIONAL PARK SERVICE.

EXHIBIT "A"
LAND DESCRIPTION

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All lands and waters except those which are now or may hereafter be included under Federal ownership within Section 35, T4S, R21E, an area known as Wawona within the boundaries of Yosemite National Park, Mariposa County, California.

END OF DESCRIPTION

REVIEWED FEBRUARY 28, 1985, BY BOUNDARY SERVICES UNIT, M.L. SHAFER, SUPERVISOR

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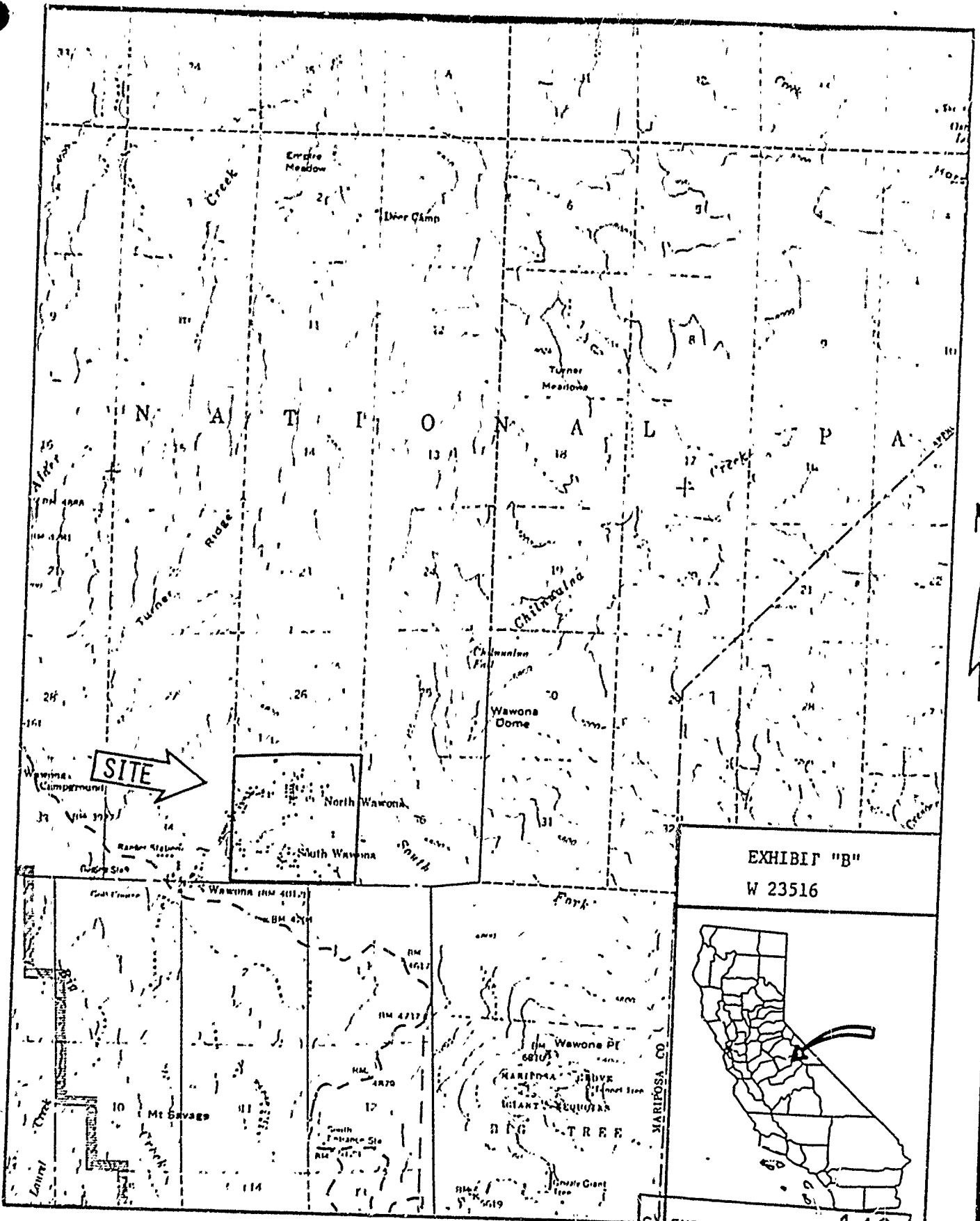


EXHIBIT "B"

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