

**Calendar Item  
C56**

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04/06/11

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**Cession of Concurrent Criminal Jurisdiction  
To The United States Department of the Army  
Over Lands Within the Presidio of Monterey,  
Stilwell Kidney Parcel, City of Seaside, Monterey County**

Pursuant to Government Code Section 126 the State Lands Commission is authorized on behalf of the State of California to cede concurrent criminal jurisdiction for not more than five years to the United States upon finding:

- a. The land is held 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 1 of the United States Constitution or for the establishment, consolidation, and extension of national forests under the Act of Congress approved March 1, 1911 known as the Weeks Act, or for any other federal purpose;
- b. The cession is in compliance with the laws of the United States;
- c. The United States has in writing requested such cession; and
- d. The State reserves jurisdiction over the land for purposes of water acquisition and management;
- e. The Legislature and the State except and reserve to the State all deposits of minerals, including oil and gas, in the land, and the right to prospect for, mine, and remove such deposits from the land;
- f. The United States has agreed to compensate the State for costs incurred in processing the cession.

The Stilwell Kidney parcel is located within the City of Seaside and historically was part of Fort Ord and under the exclusive legislative jurisdiction of the United States. Under the Base Realignment and Closure Act of 1990, Fort Ord was closed and some of its lands were retained for military housing. In 2000, the United States retroceded its exclusive jurisdiction and established concurrent criminal and civil jurisdiction over these lands. The Stilwell Kidney Parcel was transferred to the City of Seaside. Such a divestiture of title by the United States automatically terminated the exclusive legislative jurisdiction the United States had over the parcel. In 2008 the City of Seaside transferred the Stilwell Kidney Parcel back to the United States.

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Presently, the United States has proprietary jurisdiction over the Stilwell Kidney parcel meaning that California does not share any of its legislative jurisdiction with the United States. By letter dated December 29, 2010 the United States has requested the Commission cede concurrent criminal jurisdiction over lands comprising the Stilwell Kidney Parcel for the lesser of five years or so long as the United States owns the Stilwell Kidney Parcel.

If the cession is made, California and the United States will share the same degree of criminal authority including the power to arrest and prosecute crimes within the Stilwell Kidney Parcel. The cession of concurrent criminal jurisdiction does not affect civil jurisdiction within the Stilwell Kidney Parcel and it will continue to be held by the State.

Staff believes such a cession will be in the best interests of the State because it will allow federal law enforcement authorities to conduct investigations and make arrests and prosecutions of crimes committed on the Stilwell Kidney Parcel. Secondly, under the present circumstances federal authorities can do that on the lands surrounding the Stilwell Kidney Parcel but not on it. Therefore the Stilwell Kidney Parcel has become an island within other federal lands and is solely dependent upon city law enforcement. The Seaside Police Department concurs with the Army's request for the cession.

A noticed public hearing was held on February 17, 2011. Notice of the hearing was published as required by Section 126 and served upon the Clerk of the Board of Supervisors for Monterey County and upon the city clerk for the City of Seaside. Affidavits of the publication and service are found in the Commission's files. No comments in opposition to the cession were received.

The Commission staff believes that the cession of concurrent criminal jurisdiction over this facility is in the best interest of the State of California in connection with the exercise of criminal jurisdiction over it.

**EXHIBIT:**

- A. Land Description for the Stilwell Kidney Parcel.

**RECOMMENDED ACTION:**

It is recommended that the Commission:

1. Find that the activity is exempt from the requirements of CEQA pursuant to 14 Cal. Code Regs. 15061 because the activity is not a project as defined by Public Resources Code section 21065 and 14 Cal. Code Regs. 15378.

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2. Determine that the public hearing held on February 17, 2011 complied with Government Code Section 126 and Title 2 California Code of Regulations Sections 2600 et seq. dealing with cession of concurrent criminal jurisdiction and that the following requirements have been satisfied:
  - A. The United States has by letter dated December 29, 2010 requested in writing that the State of California cede concurrent criminal jurisdiction in accordance with California Government Code Section 126 over lands comprising the Stilwell Kidney Parcel within the Presidio of Monterey in Seaside, California as more particularly described in Exhibit "A" attached and by reference made a part hereof, said lands being within the State of California.
  - B. The lands are held by the United States 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 1 of the Constitution of the United States, or for the establishment, consolidation, and extension of national forests under the Act of Congress approved March 1, 1911 known as the Weeks Act, or for any other federal purpose in that they are used by the United States as part of a military housing project.
  - C. The lands were acquired by the United States by purchase or condemnation.
  - D. Jurisdiction ceded herein shall continue for the lesser of five years or so long as the United States owns the lands.
  - E. In ceding concurrent criminal jurisdiction, 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 affected by such cession.
  - F. In ceding concurrent criminal jurisdiction, the Legislature and the State except and reserve to the State all deposits of minerals, including oil and gas, in the land, and the right to prospect for, mine, and remove such deposits from the land.
  - G. The cession is pursuant to and in compliance with the laws of the United States, and the United States has agreed to accept the cession subject to the conditions referenced in Government Code Section 126.
  - H. The United States has agreed to compensate the State for its costs incurred in processing the request for the cession.

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3. Determine that a cession of concurrent criminal jurisdiction over the lands described in Exhibit "A" attached hereto and by reference made a part hereof is in the best interests of the State of California because the United States will then have the authority to conduct federal investigations and prosecutions of criminal offenses at these facilities and thereby assist local law enforcement with their duties.
4. Cede concurrent criminal jurisdiction to the United States over the Stilwell Kidney Parcel within the Presidio of Monterey, Seaside, California for the lesser of five years or so long as the United States owns the lands; said cession to be effective upon recordation of the Certificate of Cession of concurrent criminal jurisdiction in the official records of Monterey County.
5. Authorize the Commission's Executive Officer to issue a Certificate of Cession of Concurrent Criminal Jurisdiction for the Stilwell Kidney Parcel within the Presidio of Monterey, Seaside, Monterey County and have it recorded in the official records for Monterey County.