

**STAFF REPORT
C89**

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P. Huber

**CONSIDER CESSION OF CONCURRENT CRIMINAL JURISDICTION
PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 126
OVER A PORTION OF FORT ORD KNOWN AS THE STILWELL PARCEL,
CITY OF SEASIDE, MONTEREY COUNTY**

PARTY:

United States, Department of the Army, Corps of Engineers

AREA, LAND, TYPE, AND LOCATION:

A portion of Fort Ord known as the Stilwell Parcel, city of Seaside, Monterey County.

PROPOSED ACTION:

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 upon finding:

- A. The United States has requested such cession in writing.
- B. The federal lands are held or leased for the erection of forts, arsenals 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 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.
- F. The United States has agreed to compensate the State for costs incurred in processing the cession request.

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

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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 jurisdiction, the Legislature and the State reserve their full civil 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.

The Stilwell 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 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 Parcel back to the United States. Subsequently, the Department of the Army requested and the Commission ceded concurrent criminal legislative jurisdiction to the United States on April 20, 2011 ([Item C56, April 6, 2011](#)). However, that jurisdiction lapsed on April 6, 2016.

By letter signed by Paul D. Cramer, Deputy Assistant Secretary of the Army, dated July 31, 2017, the United States has requested that the State of California again cede concurrent criminal legislative jurisdiction over these facilities for a 10-year period for military purposes. The previous version of Government Code section 126 authorized the Commission to cede concurrent criminal jurisdiction for periods no greater than 5 years. Effective January 1, 2015, the Legislature amended Government Code section 126 to authorize the Commission to cede concurrent criminal jurisdiction for periods of up to 10 years.

The lands comprising the Stilwell Parcel in Monterey County were acquired by purchase or condemnation and are all owned by the United States and are used as military housing in conjunction with federal military activities conducted at Fort Ord.

A notice of the proposed cession has been given to the Clerk of the Board of Supervisors for Monterey County on September 19, 2017.

The United States has agreed to compensate the Commission for costs incurred during processing of its request and has executed a reimbursement agreement to do so.

Staff believes all pertinent federal law has been complied with and the United States has indicated in its July 31, 2017 letter that its acceptance of the cession,

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as required by 40 U.S.C. 3112, will be effective upon the Commission's approval of the requested cession.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Government Code section 126.

State's Best Interests Analysis:

Ceding concurrent criminal legislative jurisdiction over the Stilwell Parcel 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 the Stilwell Parcel 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 on the Stilwell Parcel, if needed. For these reasons, staff believes that the cession of concurrent criminal legislative jurisdiction is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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.
2. Staff recommends that the Commission find that the subject cession of jurisdiction does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378.

EXHIBIT:

- A. Land Description

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject cession of jurisdiction is not subject to the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15060, subdivision (c)(3) because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378.

AUTHORIZATION:

1. Find that the following requirements of Government Code section 126 have been satisfied as described in the body of this staff report:
 - 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, said lands being within the State.
 - 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, section 8, Article I of the Constitution of the United States, or for another federal purpose.
 - C. The cession is pursuant to and in compliance with federal law.
 - D. A notice of the proposed cession has been given to the clerk for the board of supervisors of Monterey 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 for its cost incurred in processing the cession.
2. Find that cession of concurrent criminal legislative 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 because the United States will then have the authority to conduct investigations

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and prosecutions of criminal offenses at these facilities and will be able to assist local law enforcement.

3. Cede concurrent criminal legislative jurisdiction to the United States over the Fort Ord Stilwell Parcel, Monterey County, for 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.
4. Authorize the Executive Officer or her designee to execute a Resolution of Cession of Concurrent Criminal Legislative Jurisdiction and have it recorded in the Official Records of Monterey County.

EXHIBIT A

STILWELL KIDNEY PARCEL LEGAL DESCRIPTION

That portion of the former Fort Ord Military Reservation in Rancho Noche Buena, in the City of Seaside, County of Monterey, State of California described as follows:

Being all that parcel of land designated as "Seaside II" Containing 101.75 Acres", as shown on the map filed in Volume 23, Page 78 of Surveys recorded in the Office of the Monterey County Recorder, being more particularly described as follows"

Beginning at an angle point in the southerly boundary of said parcel (Seaside II), said point also being the southerly terminus of the course designated as South 23°14'55" West, 714.36 feet on said map (Volume 23, Page 78 of Surveys), and said point also lying of the northwesterly boundary of PARCEL 4 as per map filed in Volume 19, Page 22 of Surveys recorded in the Office of the Monterey County Recorder, thence leaving said boundary of said PARCEL 4 and running along the northerly boundary of PARCEL 2, as said parcel is shown on the map filed in Volume 27, Page 91 of Surveys recorded in the Office of the Monterey County Recorder, the following three (3) courses

- 1) North 74 30'00" West, 618.15 feet; thence
- 2) North 81 32'49" West, 235.35 feet; thence
- 3) North 52 45'18" West, 28.51 feet to a point on the southeasterly boundary of the road commonly known as Monterey Road and the most northerly corner of said PARCEL 2; thence leaving said boundary of said PARCEL 2
- 4) North 52 45'18" West, 60.49 feet to a point on the northwesterly boundary of said Monterey Road, said point being on the easterly boundary of PARCEL 1 as per said map filed in said Volume 27, Page 91 of Surveys; thence along said easterly boundary of said PARCEL 1 the following six (6) courses
- 5) North 52 45'18" West, 88.95 feet
- 6) South 76 59'04" West, 228.07 feet; thence
- 7) North 27 27'31" West, 412.82 feet; thence
- 8) North 31 43'17" West, 291.49 feet; thence
- 9) North 09 58'35" East, 682.28 feet; thence
- 10) North 13 15'27" East, 607.99 feet to the most northeasterly boundary corner of said PARCEL 1, said corner also being on the southerly boundary of PARCEL 1 as per map filed in Volume 23, Page 93 of Surveys recorded in the Office of the

Monterey County Recorder, thence leaving said easterly boundary of said PARCEL 1 as per said map filed in said Volume 27, Page 91 of Surveys and along said southerly boundary of said PARCEL 1 as per said map filed in said Volume 23, Page 93 of Surveys the following two (2) courses

- 11) South 87 33'00" East, 1,151.61 feet; thence
- 12) North 02 27'00" East, 63.99 feet to a point on the southerly boundary of PARCEL 3 as per map filed in Volume 21, Page 83 of Surveys recorded in the Office of the Monterey County Recorder; thence along the southerly boundary of said PARCEL 3 the following seven (7) courses
- 13) South 87 33'00" East, 935.57 feet; thence
- 14) South 04 34'27" East, 153.77 feet to the beginning of a curve, concave to the northeast, having a radius of 950.00 feet; thence
- 15) Southeasterly 890.57 feet along said curve, through a central angle of 53 42'41", thence
- 16) South 58 17'08" East. 87.43 feet; thence
- 17) South 23 14'55"West, 495.94 feet, thence
- 18) North 66 45'05" West, 22.00 feet; thence
- 19) South 23 14'55" West, 300.00 feet to the most easterly boundary corner of said PARCEL 4 as per said map filed in said Volume 19, Page 22 of Surveys; thence leaving said westerly boundary of said PARCEL 3 as per said map filed in said volume 21, Page 83 of surveys and along the northeasterly boundary of said PARCEL 4 the following two (2) courses
- 20) North 74 30'00" West, 755.00 feet; thence
- 21) South 23 14'55" West, 714.36 feet to the POINT OF BEGINNING.

Containing 101.75 acres, more or less.

The bearing of North 74 30'00" West along the northeasterly boundary of Parcel 4 as per volume 19,Page 22 of Surveys, records of Monterey County, California is the basis of bearings for this description.

Dated: October 05, 2017

Description provided by United States Corps of Engineers.