

Lands Jurisdiction of

C O P Y

WAR DEPARTMENT
Washington

April 16, 1943

Honorable Earl Warren,
Governor of California,
Sacramento, California.

Dear Governor Warren:

The laws of the State of California, (Section 33 of the Political Code of California, and section 34 of said code as amended by an act of the legislature of California approved July 5, 1939 (Cal. Stat., 1939, chap. 710, p. 2231), permit the assumption of exclusive Federal jurisdiction over lands within that State, acquired by the United States for military and certain other purposes.

Under section 355, Revised Statutes, as amended by the act of February 1, 1940 (54 Stat. 19), and by the act of October 9, 1940 (54 Stat. 1083; 40 U.S.C. 255), it is provided in effect that unless and until the United States has accepted jurisdiction over lands acquired or in which any interest shall have been acquired after February 1, 1940, it shall be conclusively presumed that no such jurisdiction has been accepted.

Accordingly, notice is hereby given that the United States accepts exclusive jurisdiction over all lands acquired by it for military purposes within the State of California, title to which has heretofore vested in the United States, and over which exclusive jurisdiction has not heretofore been obtained.

It is requested that you return the inclosed copy of this letter, with an indorsement thereon over your signature stating the date of your receipt of this notice.

Sincerely yours,

(signed)

Henry L. Stimson
Secretary of War

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Governor Earl Warren
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October 22, 1943

Mr. L. Stimson
Department of War
Washington, D.C.

Secretary:

Governor Warren has directed me to
further concerning your letter of
accepting in behalf of the United
States jurisdiction over all lands acquired
for military purposes in the State of
California. District Attorney Arthur J. An-
derson of Lassen County has called to the
Governor's attention the fact that the town
of Marysville is situated on land owned by the
United States Government. He asks that the
Department request information from you as to
whether the town is part of the Sierra Ord-
nance Depot under the exclusive jurisdiction
of the United States Government.

For your information a copy of Mr.
Anderson's letter is enclosed. The Governor
appreciate any assistance your depart-
ment be able to give him in this matter.

Sincerely,

(Miss) Helen R. MacGregor
Private Secretary

Wm. J. Kenny

(215 pgs)

ROBERT W. KENNY
ATTORNEY GENERAL

STATE OF CALIFORNIA
LEGAL DEPARTMENT

San Francisco, April 28, 1943.

Honorable Earl Warren
Governor of California
Sacramento, California.

Dear Sir:

By letter of April 22, 1943, you have transmitted a copy of a letter addressed to you on April 16, 1943, by the Hon. Henry L. Stimson, Secretary of War, in which he accepts, upon behalf of the United States, exclusive jurisdiction "over all lands acquired by it for military purposes within the State of California, title to which has heretofore vested in the United States and over which exclusive jurisdiction has not heretofore been obtained". You ask that I advise you whether you should request detailed information as to the property affected by this notice.

By Act of Congress, effective Feb. 1, 1940, section 355 of the Revised Statutes of the United States was amended and the following language added: (54 Stats. 19)

"Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not



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"theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted."

The reason for the enactment of this provision is found in the case of Mason Co. vs. Tax Comm'on, 302 U.S. 186, wherein the court said at page 207:

"Even if it were assumed that the state statute should be construed to apply to the federal acquisitions here involved, we should still be met by the contention of the Government that it was not compelled to accept, and has not accepted, a transfer of exclusive jurisdiction. As such a transfer rests upon a grant by the State, through consent or cession, it follows, in accordance with familiar principles applicable to grants, that the grant may be accepted or declined. Acceptance may be presumed in the absence of evidence of a contrary intent, but we know of no constitutional principle which compels acceptance by the United States of an exclusive jurisdiction contrary to its own conception of its interests. The mere fact that the Government needs title to property within the boundaries of a State, which may be acquired irrespective of the consent of the State (Kohl v. United States, 91 U.S. 367, 371, 372), does not necessitate the assumption by the Government of the burdens incident to an exclusive jurisdiction." (Emphasis added)

While section 355 has been construed by the Supreme Court of this State in the case of Johnson vs. Morrill, 20 Cal. (2) 446, I have found no case in which any court has considered the question of the degree of particularity of the description of the property which must be made by the officer executing an

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acceptance of exclusive jurisdiction upon behalf of the United States. If the "familiar principles applicable to grants" are to be applied, as the Supreme Court has indicated in Mason Co. vs. Tax Comm'n., supra, then a general description of the land which furnishes a means by which it can be identified is sufficient. (G.R. Holcomb Estate Co. vs. Burke, 4 Cal. (2) 289; 26 C.J.S. sec. 30(a) p. 211). Considered by this test, the acceptance addressed to you by the Secretary of War would undoubtedly be held sufficient.

However, the question whether a particular tract of land is or is not within the exclusive jurisdiction of the United States is a question of the utmost importance to State and local officers. Upon the determination of it will depend the scope and authority of officers charged with the administration of taxing laws, school laws, police and sanitation laws, and fire protection laws. Upon its determination depends the right of persons residing in an area to vote, to send their children to schools within this State and to look to local authorities for police and fire protection. The importance of a proper determination is manifest and therefore I suggest that you request the Secretary of War to specify the particular tracts of land to which his acceptance is applicable, for, as it now reads, the situation in each case must depend upon a determination whether the title to the land had vested in the

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United States on or before April 16, 1943, and whether the
land had been acquired by the United States "for military
purposes".

Very truly yours,

ROBERT W. KENNY, Attorney General

By *Char. W. Johnson*
Deputy

CWJ:W

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