

MINUTE ITEM

This Calendar Item No. C27 was approved as Minute Item No. 27 by the California State Lands Commission by a vote of 3 to 0 at its 02/05/07 meeting.

**CALENDAR ITEM
C27**

A 66
S 38

02/05/07
WP 5265 WP 5265
J. Porter

LEASE RENEWAL

APPLICANT:

BSTCO, a California General Partnership
1320 East Olympic Blvd., Suite 215
Los Angeles, CA 90021

AREA, LAND TYPE, AND LOCATION:

38.7 acres, more or less, of school lands north of Escondido and southeast of Fallbrook, San Diego County.

AUTHORIZED USE:

Operation of an avocado and citrus orchard and for such other related or incidental purposes as may be first approved by the Commission.

PROPOSED LEASE TERM:

Ten years, beginning April 1, 2002.

CONSIDERATION:

\$10,000 minimum rent per year, with payment of additional rent whenever Gross Income in a Lease year exceeds \$264,000; the additional rent shall be 10% of any amount over \$264,000; and with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit liability insurance with coverage of no less than \$2,000,000.

Bond:

\$5,000.

OTHER PERTINENT INFORMATION:

1. On August 22, 1990, pursuant to Item 26, the Commission authorized the assignment of a General Lease – Agricultural Use, from Steven L. White,

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Robert Witt, Sam Perricone, and Thomas Kimmel, to BSTCO, a Partnership (BSTCO), for an existing avocado and citrus orchard on 38.7 acres of school lands. The original lease included an option for one ten-year lease renewal. BSTCO now is applying to exercise that lease renewal.

2. Staff has completed a new appraisal of the lease premises and conducted a market analysis of the avocado business in California. Based on the appraisal and the market analysis, staff is recommending a revision in the lease consideration, with an annual minimum rent of \$10,000. The Applicant also will pay additional rent whenever the gross income in a lease year exceeds \$264,000; the additional rent shall be 10% of any amount over \$264,000.
3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

EXHIBITS:

- A. Location Map
- B. Legal Description

CALENDAR ITEM NO. C27 (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

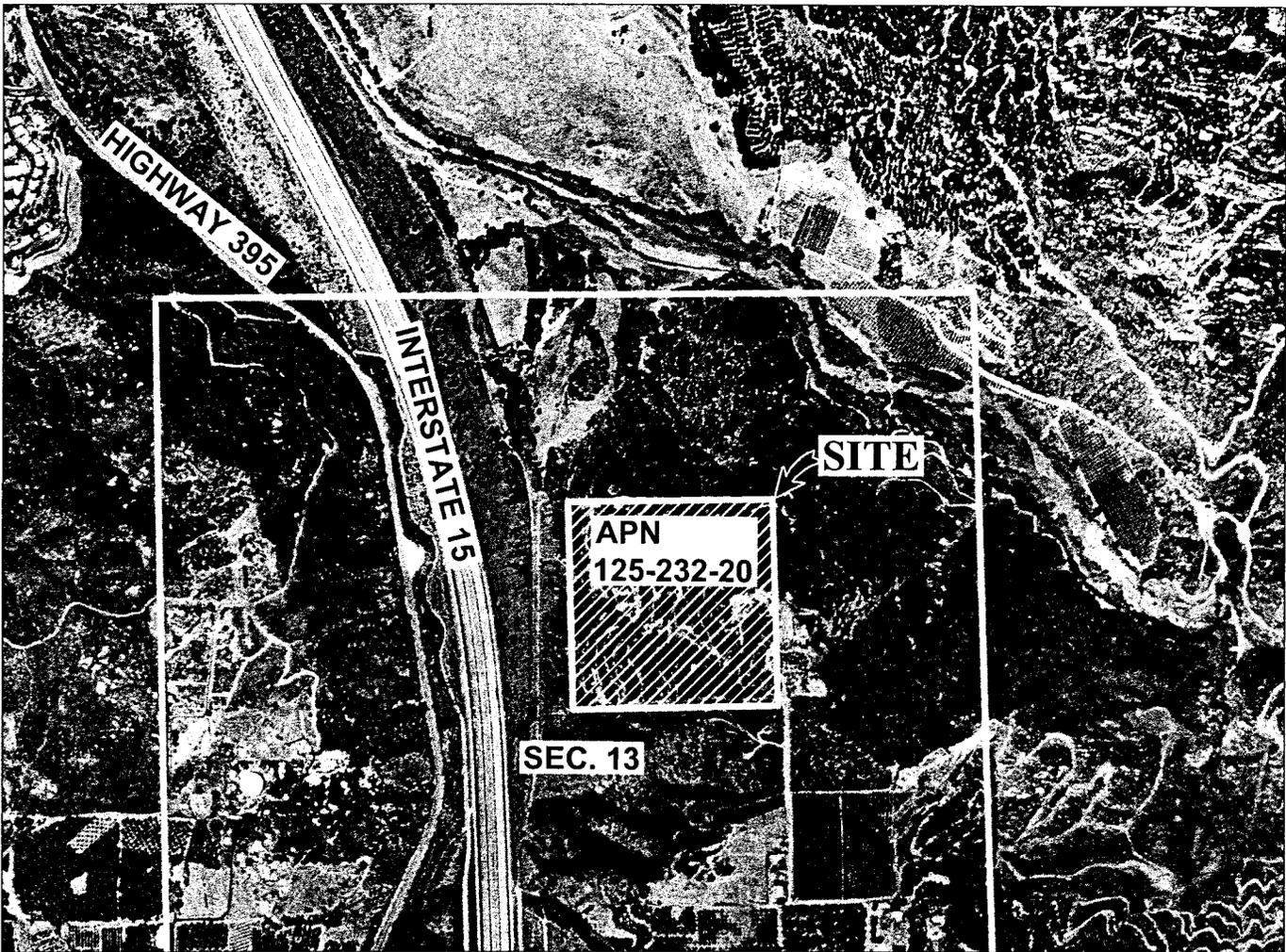
FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

AUTHORIZATION:

AUTHORIZE ISSUANCE TO BSTCO, A CALIFORNIA GENERAL PARTNERSHIP, OF A GENERAL LEASE – AGRICULTURAL USE, BEGINNING APRIL 1, 2002, FOR A TERM OF TEN YEARS, FOR THE OPERATION OF AN AVOCADO AND CITRUS ORCHARD AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AND DESCRIBED ON EXHIBIT B ATTACHED AND MADE A PART HEREOF; ANNUAL MINIMUM RENT IN THE AMOUNT OF \$10,000, WITH PAYMENT OF ADDITIONAL RENT WHENEVER GROSS INCOME IN A LEASE YEAR EXCEEDS \$264,000; THE ADDITIONAL RENT SHALL BE 10% OF ANY AMOUNT OVER \$264,000, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE WITH COVERAGE OF NO LESS THAN \$2,000,000, AND SURETY IN THE AMOUNT OF \$5,000.

NO SCALE

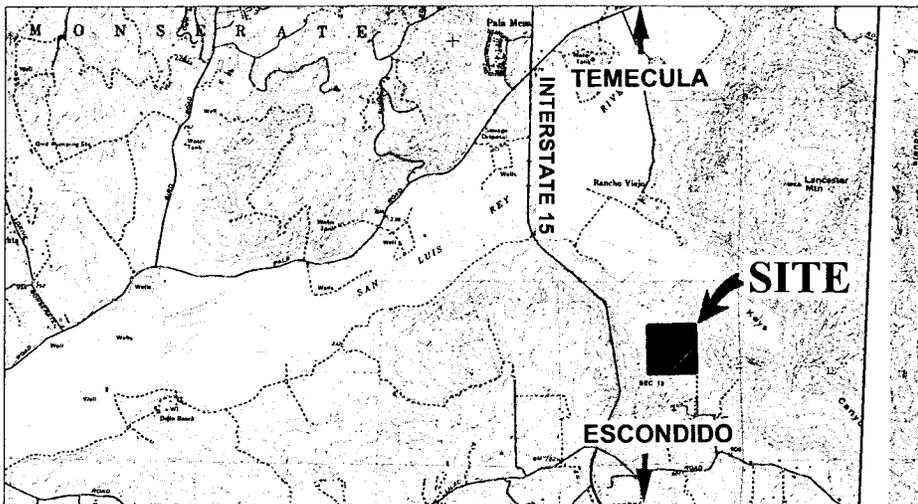
SITE



NEAR FALLBROOK, CA SW 1/4 OF THE NE1/4 SEC.13 T10S, R3W SBM

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

WP 5265
 BSTCO AVOCADO RANCH
 APN 125-232-20
 AGRICULTURAL LEASE
 SE OF FALLBROOK, CA
 SAN DIEGO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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HUSTEAD 1/4/2007

EXHIBIT B

WP5265

LAND DESCRIPTION

A parcel of school land situate in San Diego County, California, patented to said State and approved May 10, 1960 and filed in "Approved List No. 295 of School Indemnity Lands" at the California State Lands Commission, Sacramento, California, more particularly described as follows:

The SW 1/4 of the NE 1/4 of Section 13, T10S, R3W, SBM.

END OF DESCRIPTION

Prepared on 08/09/2006 by the California State Lands Commission Boundary Unit



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