

Staff Report 43

APPLICANT:

BSTCO, a California General Partnership

PROPOSED ACTION:

Issuance of a General Lease – Agricultural Use

AREA, LAND TYPE, AND LOCATION:

38.7 acres, more or less, of State Indemnity school lands located in Section 13, Township 10 South, Range 3 West, SBM, north of Escondido, San Diego County.

AUTHORIZED USE:

Operation and maintenance of an existing avocado orchard and appurtenant facilities.

TERM:

20 years, beginning April 1, 2022.

CONSIDERATION:

Base Rent in the amount of \$10,000 per year and payment of additional rent whenever Gross Income in a Lease Year exceeds \$300,000; the additional rent shall be 10% of any amount of Gross Income in excess of \$300,000, as provided in the lease; with the State reserving the right to fix a different rent on the tenth anniversary of the lease, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Rent review to be conducted on the tenth anniversary of the lease as provided in the lease.
- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Surety bond or other security in the amount of \$25,000.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6217.5, 6301, 6501.1, 6503, and 8701; California Code of Regulations, title 2, sections 2000 and 2003.

STATE'S BEST INTERESTS:

On January 26, 2012, the Commission authorized the issuance of Lease No. PRC 5265 ([Item 71, January 26, 2012](#)), a General Lease – Agricultural Use to BSTCO, a California General Partnership (BSTCO), for a term of ten years, for the continued operation of an avocado and citrus orchard previously authorized by the Commission. That lease expires on March 31, 2022. The citrus orchard has been removed and replaced with additional avocado trees. Two appurtenant structures have been constructed to store harvested avocados before shipment to market and to store irrigation and maintenance equipment. BSTCO is now applying for a new lease for the continued operation of the existing avocado orchard and appurtenant facilities.

The proposed lease is limited to a 20-year term and will terminate near the end of the average life span of an avocado orchard. The proposed lease does not alienate the State's fee simple interest. The lease requires the Applicant to insure and indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises and to maintain the avocado orchard and appurtenant facilities at its sole expense. The lease also requires the payment of annual rent, which generates revenue for the California State Teachers' Retirement System, consistent with Public Resources Code section 6217.5.

CLIMATE CHANGE:

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. The lease area is agricultural use planted with avocado trees, which are vulnerable to the aforementioned events, including dust storms and flash flooding from thunderstorms and wildland fires. The leased lands and surrounding land may be vulnerable to these climate change-induced weather events.

CONCLUSION:

For the reasons stated above, staff believes issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the application, the Applicant has no right to a lease. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-25 Strategic Plan to "Embrace and safeguard multi-benefit School Lands and resource management stewardship that equitably balances responsible local and regional economic development, supports living wages, environmental protection, and revenue generation."
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

EXHIBITS:

- A. Land Description
- B. Site and Location Maps

SITE AND LOCATION MAPS RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

STATE'S BEST INTERESTS:

Find that the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Agricultural Use to the Applicant, beginning April 1, 2022, for a term of 20 years, for the continued operation and maintenance of an avocado orchard and appurtenant facilities on State Indemnity school lands, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; Base Rent in the amount of \$10,000 per year and payment of additional rent whenever gross income in a lease year exceeds \$300,000; the additional rent shall be 10% of any amount of gross income in excess of \$300,000, as provided in the lease; with the State reserving the right to fix a different rent on the tenth anniversary of the lease; liability insurance with coverage in the amount of no less than \$2,000,000; and a Surety Bond or other security in the amount of \$25,000.

EXHIBIT A

LEASE 5265

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.

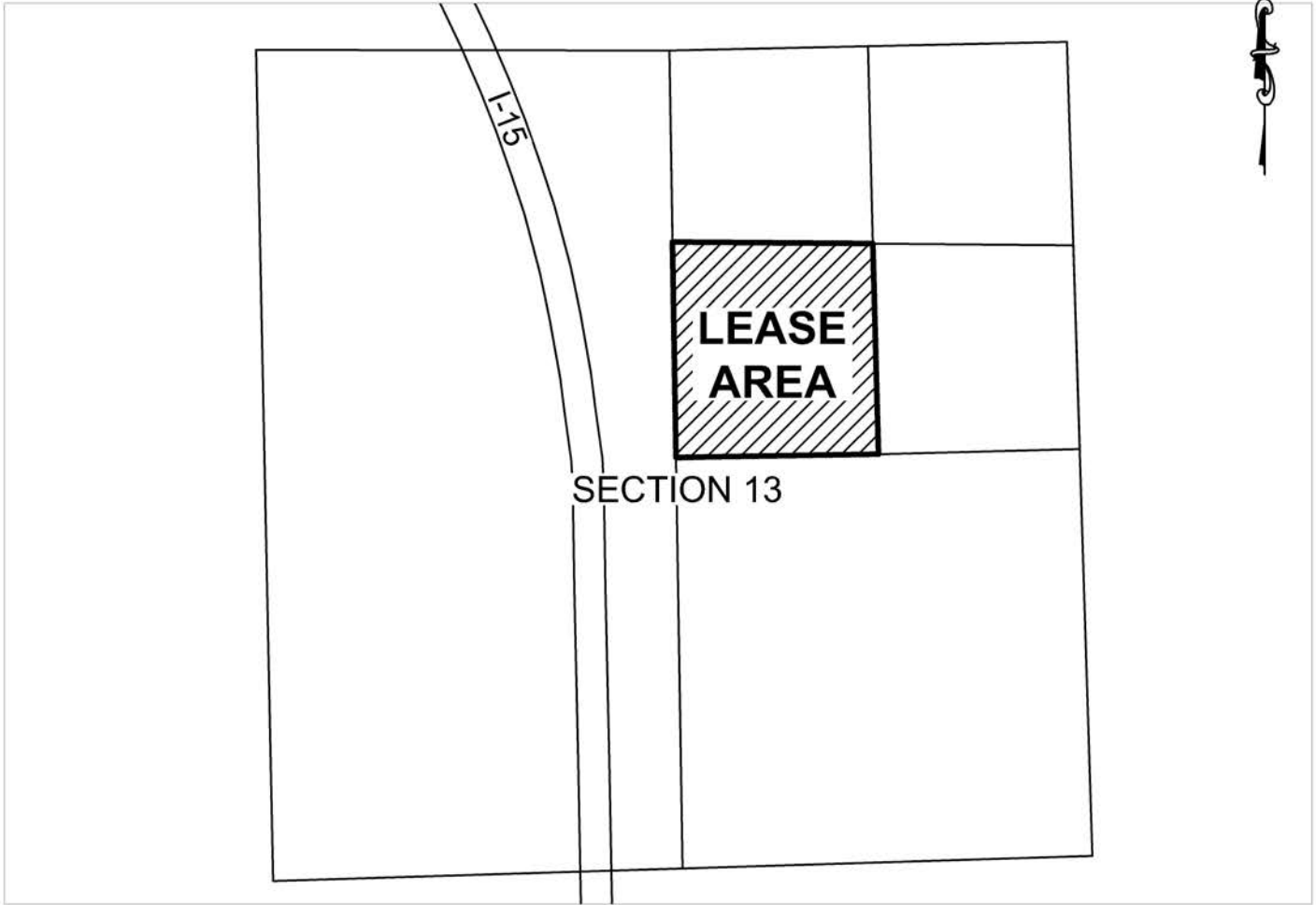
END OF DESCRIPTION

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



NO SCALE

SITE



SW $\frac{1}{4}$ NE $\frac{1}{4}$ SECTION 13, T10S, R3W, SBM
 AVOCADO ORCHARD & APPURTENANT FACILITIES

NO SCALE

LOCATION

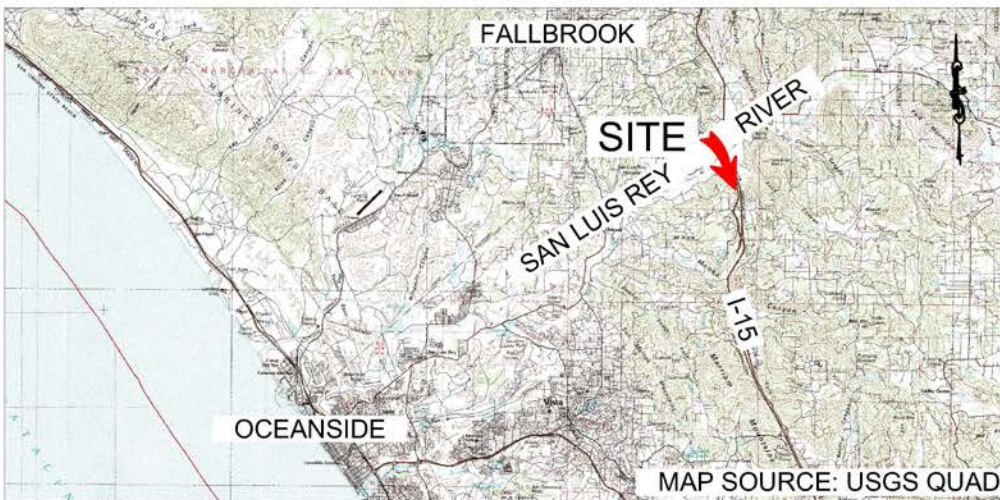


EXHIBIT B

LEASE 5265
 BSTCO
 APN 125-232-20
 GENERAL LEASE -
 AGRICULTURAL USE
 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.

MJF 1/14/2021