

**CALENDAR ITEM
C110**

A	56	12/18/15
		SA 5771
		J. Porter
S	40	P. Huber

**CONSIDER ADOPTION OF A NEGATIVE DECLARATION AND AUTHORIZATION
OF THE SALE AND ISSUANCE OF A PATENT OF STATE SCHOOL LANDS BY THE
CALIFORNIA STATE LANDS COMMISSION, ACTING IN ITS REGULAR CAPACITY
AND AS TRUSTEE OF THE SCHOOL LAND BANK FUND**

APPLICANT:

Chasterus Foundation
336 N. St. Louis St.
Los Angeles, CA 90033

AREA, LAND TYPE, AND LOCATION:

30 acres, more or less, of State school lands described as the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 10 South, Range 14 East, SBM, approximately two miles northeast of Niland, Imperial County.

PROPOSED ACQUISITION:

The Chasterus Foundation has applied to the California State Lands Commission (Commission or CSLC) to purchase 30 acres, more or less, of State school lands to operate and maintain an existing artist colony known as East Jesus. The name "East Jesus" is a colloquialism for a land "in the middle of nowhere;" there is no religious connotation.

The property is located within a section of State school lands that was condemned by the federal government in 1942 for use by the U.S. Marines as part of a military base known as Camp Dunlap. The base included numerous buildings, a water treatment system, sewage collection and treatment facilities, recreational facilities and over eight miles of paved streets. The base was deactivated in 1945 and the improvements were demolished and removed. The only improvements that remained were the concrete building foundations which were left in the ground. The land then was quitclaimed back to the State in 1961. Since that time, the land has been subject to temporary and permanent residential uses by numerous people whose uses were not authorized by the Commission.

CALENDAR ITEM NO. **C110** (CONT'D)

Camp Dunlap has been identified as a Formerly Used Defense Site (FUDS) by the U.S. Department of Defense. As such, the Applicant has been notified in writing and acknowledges that the Property might contain Munitions and Explosives of Concern and/or Munitions Constituents. The U.S. Army Corps of Engineers (ACOE) is the lead agency for conducting and paying for the survey, evaluation, and cleanup for these conditions as part of the FUDS program. The Commission and the Applicant acknowledge that the ACOE and the California Department of Toxic Substances Control (DTSC) should be notified before any significant ground-disturbing activities take place or if unidentified and suspicious materials are found on the Property.

In 2007, Charles Russell came to the area, set up residence, and established the beginnings of an art colony that would become known as East Jesus. Today, East Jesus is an art installation made from discarded material that has been reused, recycled, or re-purposed and includes assemblage and mixed-media art, sculptures, photography, performance art, writing, and music. The installation includes pieces from artists of note including Royce Carlson, Mirabelle Jones, Joe Holliday, Angelina Christina, Ben Wolf, The Hive Collective, Christian Hernandez, and Shing Yin Khor. Visitors are encouraged to imagine a world without waste in which every action is an opportunity for self-expression.

Since the death of Charles Russell in 2011, a board of directors has guided the curation and maintenance of East Jesus. The board of directors was formalized in 2014 with the creation of the Chasterus Foundation, a 501(c)(3) non-profit organization for public benefit. The Foundation was created to maintain and protect this unique facility for the enjoyment, expression, and inspiration of artists of all mediums and as an independent recreational facility for the public benefit of Imperial County. No further building improvements are planned for the property.

STAFF RECOMMENDATION:

The East Jesus property is located in a remote desert location and lacks basic infrastructure (public water, sewer, utilities, etc.). Additionally, staff is unaware of any publicly available plans for this area which would indicate potential for long-term revenue generation involving this property. As such, and due to the relatively long term status of the land being occupied as a popular art colony, staff believes the property holds little, if any, potential for long-term revenue generation. The purchase price of \$25,500 is within the range of fair market value for the subject property, supported by an independent staff review of an appraisal of the property and other pertinent area sales data. In addition to the

CALENDAR ITEM NO. **C110** (CONT'D)

purchase price, the Applicant is required to pay a patent fee and staff costs associated with the transaction.

If authorized, the consideration of \$25,500 will be deposited into the School Land Bank Fund to: 1) facilitate the management of school lands; 2) generate revenue; and 3) fulfill the goals of the School Land Bank Act. For this transaction, the Commission is acting as trustee for the School Land Bank Fund, pursuant to Division 7.7 of the Public Resources Code. Therefore, staff believes it is in the best interests of the State to sell the property to the Applicant.

OTHER PERTINENT INFORMATION:

1. Staff conducted a public meeting at the Niland Chamber of Commerce on December 9, 2015, to provide an opportunity to discuss the proposed sale. A notice announcing the meeting was printed in the Imperial Valley Press on December 5 and December 6. Approximately thirty people attended the meeting. No substantive questions or concerns were expressed at the meeting about the potential sale of the East Jesus property.
2. Staff filed a General Plan for this activity with the Legislature pursuant to Public Resources Code section 6373 (Exhibit C).
3. The Commission is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000, et seq.) and staff conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063). The Initial Study concluded that “there is no substantial evidence, in light of the whole record before the agency, that the Project may have a significant effect on the environment” (State CEQA Guidelines, § 15070, subd. (a)), and a Negative Declaration (ND) was prepared.

Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), the staff prepared a ND identified as CSLC ND No. 788, State Clearinghouse No. 2015101112. The ND and Initial Study were circulated for a 30-day public review period from October 30, 2015 to November 30, 2015, and staff received two comment letters:

CALENDAR ITEM NO. **C110** (CONT'D)

- Commenter #1: Sara Michael, Remedial Project Manager, DTSC Brownfields and Environmental Restoration Program. Comments received from DTSC request that the proposed sale of the school lands in Imperial County be recognized as a FUDS Site by both the CSLC and the two non-profit buyers (the ND addressed two separate purchases by non-profits, including the subject East Jesus property). The comments also reflect the DTSC's request for technical information relating to the surveys performed during the preliminary clearance/baseline condition identification survey performed in August 2015. The technical responses clarifying DTSC's request for information were sent to the commenter on December 10, 2015.
- Commenter #2: Jim Minnick, Director, Imperial County Planning and Development Services. This comment letter reflects a collection of comment letters from divisions within Imperial County (County) government. The comments received reflect the County's concern of future use of the properties by the buyers and how the baseline conditions identified in the preliminary clearance/baseline condition identification survey will change. Many of the comments and concerns of the County are not related to the CEQA impact analysis. The County had requested information that was not evaluated for establishing the environmental impacts of the sale or were not part of the analysis performed as part of the CEQA review process.

Commission staff revised the ND as a result of the comments received to more thoroughly explain the Federal FUDS Program and how the prospective buyers of the parcels are fully aware of the existing baseline site conditions. Staff determined that these changes do not constitute a "substantial revision," as defined in State CEQA Guidelines section 15073.5, subdivision (b), and that recirculation of the ND prior to Commission consideration is not required, pursuant to State CEQA Guidelines section 15073.5, subdivision (c).

Based upon the Initial Study, the ND, and the comments received in response thereto, there is no substantial evidence that the Project will have a significant effect on the environment. California Code of Regulations, Title 14, section 15074, subdivision (b).

CALENDAR ITEM NO. **C110** (CONT'D)

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all 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 section 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 California Code of Regulations, Title 2, section 2954 is not applicable.

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. General Plan

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. Certify that the ND, CSLC ND No. 788 (December 2015), State Clearinghouse No. 2015101112, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto, and that the ND reflects the Commission’s independent judgment and analysis.
2. Adopt the ND and determine that the Project, as approved, will not have a significant effect on the environment.

AUTHORIZATION:

1. Find that a General Plan for this activity (attached as Exhibit C) was filed with the Legislature pursuant to Public Resources Code section 6373 and that the proposed use of the land as described in Exhibit A and shown on Exhibit B will be consistent with such plan.
2. Find that the sale is in the best interests of the State of California.
3. Authorize the Executive Officer, or her designee, to execute, consistent with the General Plan, the document titled “Offer to

CALENDAR ITEM NO. **C110** (CONT'D)

Purchase Real Estate in the County of Imperial and Acceptance of Offer to Purchase,” in substantially the same form as on file with the Commission, and any other document(s) necessary to complete this transaction.

4. Authorize issuance of a patent to the Chasterus Foundation, subject to applicable statutory and constitutional reservations, for the land described in Exhibit A and as shown on Exhibit B, both attached and by this reference made a part hereof.
5. Authorize the deposit of \$25,500 into the School Land Bank Fund.

EXHIBIT A

SA 5771

LAND DESCRIPTION

That certain parcel of State School Land in Imperial County, State of California, more particularly described as follows:

The Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 36, Township 10 South, Range 14 East, San Bernardino Meridian, as shown on that Official U.S. Government Township Plat approved October 6, 1856.

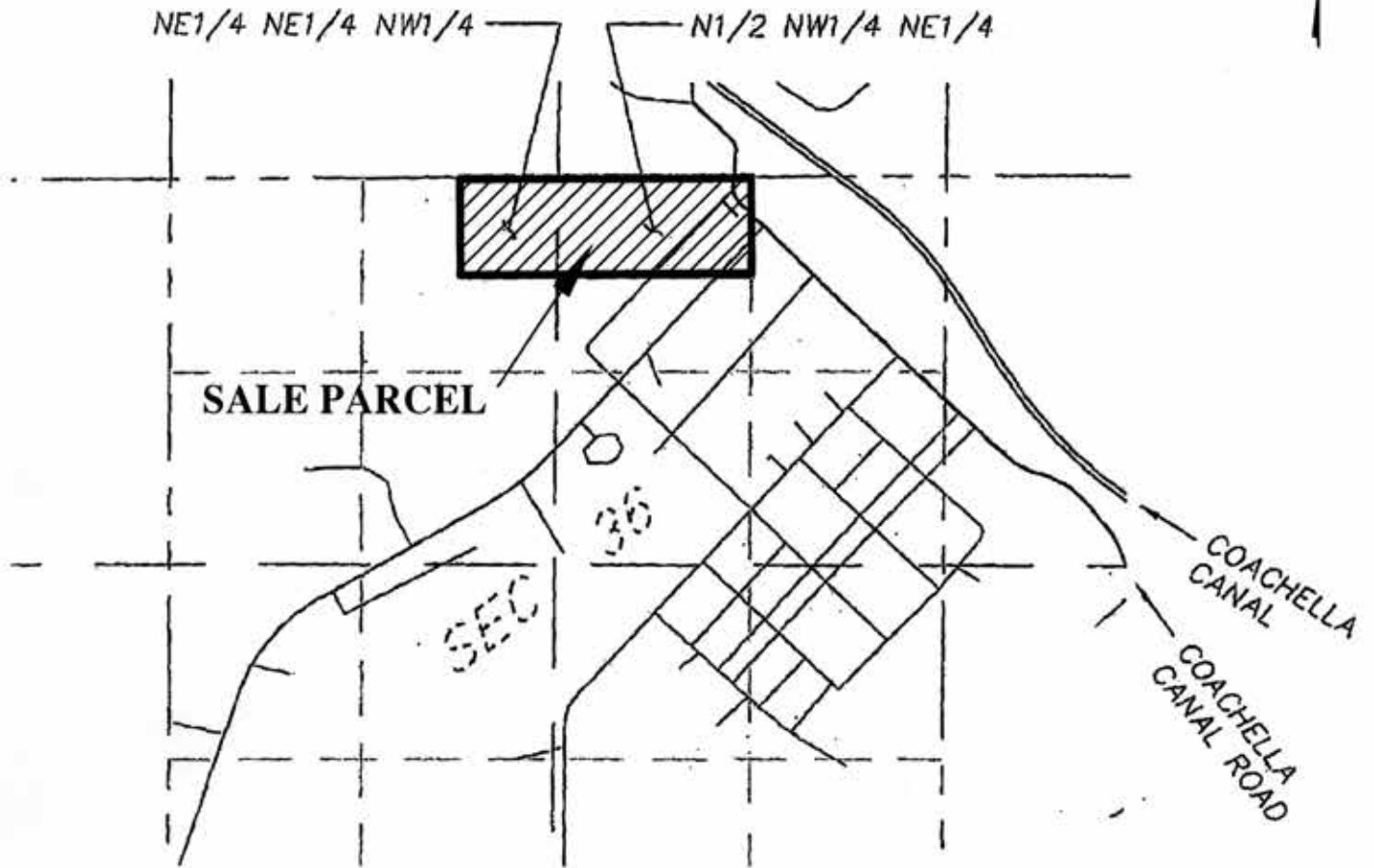
END OF DESCRIPTION

Prepared 04/28/2014 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



PORTION OF SECTION 36, T.10S., R.14E., SBM, NEAR THE CITY OF NILAND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

SA 5771
 CHASTERUS FOUNDATION
 APN 003-240-005
 LAND SALE
 IMPERIAL COUNTY



This Exhibit is solely for purposes of generally defining the sale property, is based on unverified information provided by the Applicant 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.

TS 04/28/14

EXHIBIT C

GENERAL PLAN

PROPOSED TRANSACTION

The Chasterus Foundation (Applicant) proposes to purchase 30 acres, more or less, of State school lands in Imperial County.

PROPERTY LOCATION/INFORMATION

The property proposed for acquisition (Subject Property) is comprised of state school lands described as NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 10 South, Range 14 East, SBM. The land is located approximately two miles northeast of Niland, Imperial County. The area is zoned by Imperial County as S-2, which is defined as Open Space/Preservation; a zone that allows tourist information centers, institutions of a philanthropic nature, and recreational camps, resorts, guest and dude ranches, as well as agricultural activities.

LAND USE

The Subject Property is currently used by the Applicant as an artist colony known as "East Jesus" and seeks to purchase the land to ensure the existence, maintenance and curation of the facility and its art works in perpetuity.

The Applicant also intends to continue to use East Jesus and the art works contained therein as an independent recreational facility for public benefit within Imperial County. As set forth in the General Plan of Imperial County, there is a policy to "encourage private sector development, operation, and maintenance of recreation facilities" and to "work with individuals, businesses, civic clubs and citizen groups to generate funds, gather property, and/or manpower for the development and operation of park and recreation facilities."

East Jesus is modeled after Pioneers' Park, an existing independent park and museum also located in Imperial County. Pioneers' Park serves as campus to the Pioneers Museum and Cultural Center, and also includes several outdoor exhibits, a shade structure, restrooms, and a train station building with a patio.

In addition to the main art installation, East Jesus includes a Sculpture Garden and a tourist information center, a compost demonstration exhibit, organic farming demonstration fields, a green power demonstration exhibit, shade structures, a portable library and reading room, and more. The Applicant provides free tours to the public, provides demonstration of sustainable practices and green technologies, and allows visitors to experience "a world without waste."

PROPOSED USE

According to the Applicant, the proposed use is to continue to use the property in its "as is" condition as an artist colony and as an independent recreational facility for the public benefit of Imperial County. No further building improvements are planned for the property.