



THE CITY OF **ORIGINAL**
SAN DIEGO

PROPERTY DEPARTMENT, MAIL STATION 51-A
SECURITY PACIFIC PLAZA, 1200 THIRD AVENUE, SUITE 1700
SAN DIEGO, CALIFORNIA 92101-4199 TELEPHONE: (619) 236-6020
FAX: (619) 696-0590

April 21, 1992

Evergreen Distributors, Inc.
14832 Highland Valley Road
Escondido, CA 92025

Attention Mr. Mark Collins

Gentlemen:

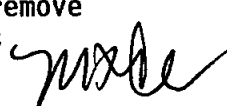
Re: Right of Entry Permit to Approximately 70 Acres of City-owned Land in San Pasqual Valley

The City of San Diego ("City") hereby grants permission to Evergreen Distributors, Inc. ("Permittee") to enter upon the above-referenced City-owned property ("permit area"), as delineated on the attached Exhibit "A," upon the following terms and conditions:

1. Permittee's use of the permit area shall be limited to storing and maintaining nursery products, removing wrecked vehicles and related equipment, junk and rubble from the premises and restricting motorcycles, three-wheelers, and four-wheel-drive vehicles from accessing and trespassing on the property.
2. Consideration to City for granting this permit shall be One Thousand Seven Hundred Fifty-two Dollars (\$1,752).
3. This permit shall be in effect April 27, 1992 through July 26, 1992.
4. Permittee certifies that a policy of public liability and property damage insurance, in which "The City of San Diego" is named as an additional insured, has been secured in an amount of not less than \$1 million combined single limit liability with an occurrence claims form and that said policy shall be kept in force for the duration of this permit. A certificate of said insurance shall be filed with the City Property Department upon execution of this permit.
5. Permittee agrees to defend, indemnify, protect, and hold City and its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Permittee's employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused by the acts or omissions of Permittee and its agents, officers, or employees in performing the work or services herein and all expenses of investigating and defending against same; provided, however, that Permittee's duty to



indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers, or employees.

6. All risks in connection with Permittee's use of the permit area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
7. Permittee shall not use the permit area in any manner which, in the opinion of the City Manager, creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area.
8. This permit is revocable at any time by the City of San Diego. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this permit.
9. Permittee recognizes and understands that this permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Permittee further agrees that such tax payment shall not reduce any fee paid the City of San Diego hereunder and that such tax shall be paid by Permittee before becoming delinquent.
10. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the permit area.
- ~~11. Permittee shall file with the City Property Department a \$1,000,000 cash performance deposit to assure that, upon expiration or earlier termination of this permit, Permittee shall at its sole cost remove all materials and repair and/or restore the permit area to its original condition to the satisfaction of the City Manager.~~ 
12. Permittee shall not assign any rights granted by this permit nor any interest therein without the prior written approval of the City Manager. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the City Manager. Any assignment by operation of law shall automatically terminate this permit.
13. No signs shall be displayed on the permit area without the prior written consent of the City Manager.
14. Maintenance of the permit area shall be the sole responsibility of Permittee during the entire term of this permit.
15. Grading and compaction operations shall be done in such a manner that the existing surface drainage pattern will not be disrupted, and the final grades will not interfere with the existing flow pattern.

16. Permittee agrees to maintain existing fencing on the premises and install new fencing as necessary.
17. In the event a lease agreement between Permittee and the City of San Diego is executed by the City Manager prior to the expiration of this permit, said permit shall automatically terminate upon the effective date of the agreement.
18. This activity is a Class 1 project categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15301.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed copy of this letter and return it to the City Property Department, together with your insurance certificate and check for \$1,752.00 made payable to the "City Treasurer," within 10 days from receipt hereof.

If you should require additional information or have any questions, please call William R. Knowles, Agricultural Lease Manager, at 236-5548.

Very truly yours,


James L. Spotts
Property Director

JLS:WRK:st(3)

Attachments

cc: County Assessor
Auditor
Financial Management

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS _____ DAY OF _____, 1992.

EVERGREEN DISTRIBUTORS, INC.

By 

By _____

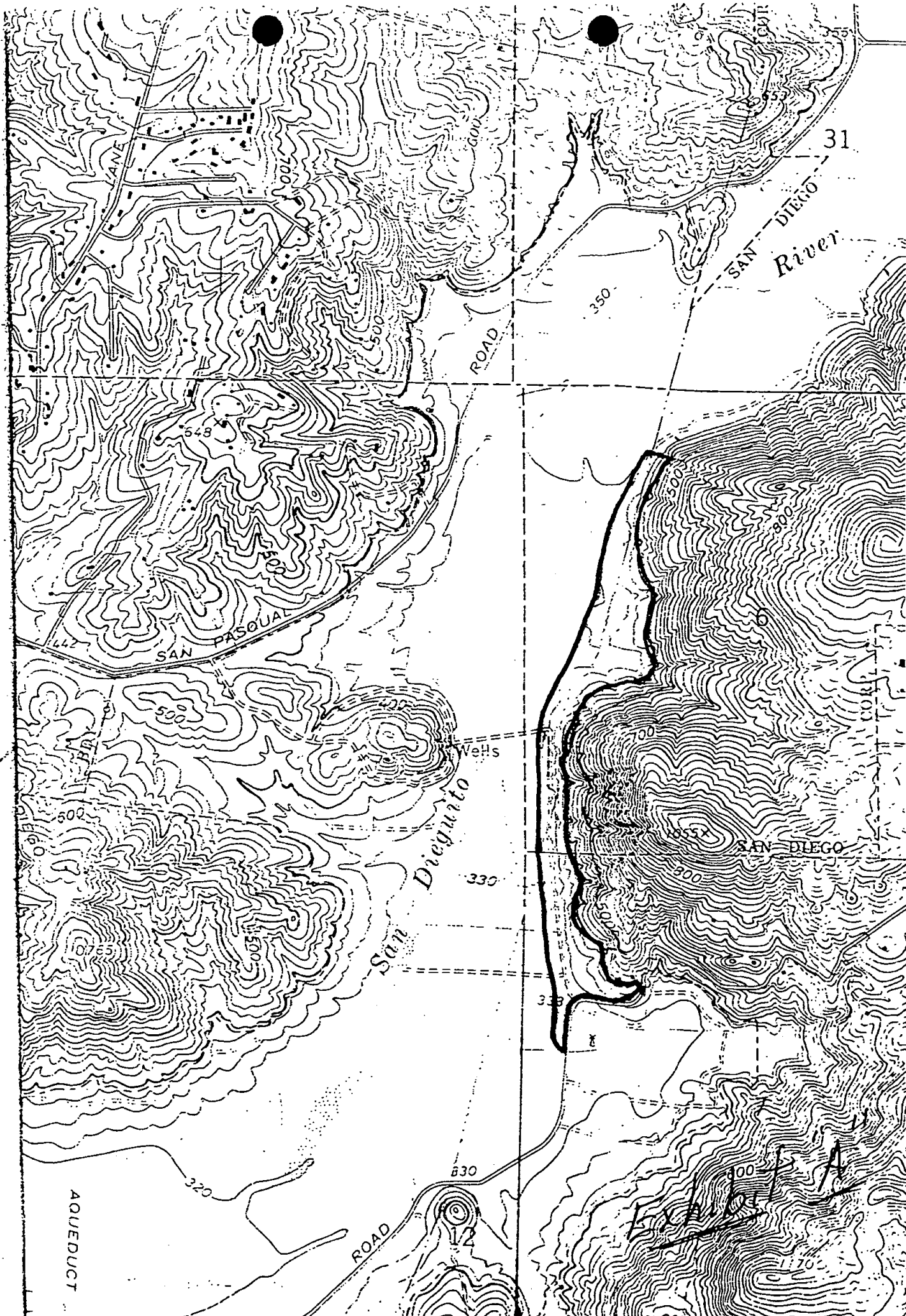
CEQA EXEMPTION VERIFIED


DEP

APPROVED AS TO FORM AND LEGALITY BY:

JOHN W. WITT, City Attorney

By 
Deputy City Attorney





THE CITY

SAN DIEGO

PROPERTY DEPARTMENT, MAIL STATION 51-A
SECURITY PACIFIC PLAZA, 1200 THIRD AVENUE, SUITE 1700
SAN DIEGO, CALIFORNIA 92101 TELEPHONE: (619) 236-6020

September 3, 1986

File: Lease - San Pasqual Vineyards
→ Sublease - Evergreen Nursery

Mr. Charles W. Froehlich
San Pasqual Vineyards
13455 San Pasqual Road
Escondido, CA 92025

CITY OF SAN DIEGO	
PROPERTY DEPT.	
☐	DIRECTOR
☐	DEPUTY MANAGER
☐	FILE COPY
☒	CHRON. COPY
☒	ORIGINATOR

Dear Mr. Froehlich:

The San Pasqual Vineyards sublease agreement with Evergreen Distributors, Inc., DBA Evergreen Nursery, Inc., to grow ornamental plants, shrubs, and trees is approved, subject to the following:

1. The City shall be paid fifty percent (50%) of all rent derived from the sublease agreement provided, however, the Vineyards land rent of fifteen dollars (\$15) per acre may be deducted from the City's share of the sublease rent prior to payment.
2. A Certificate of Insurance showing that the sublessee has the same coverage as the Vineyards is required to maintain under the master lease agreement shall be provided the Property Department within ten working days following your receipt of this letter.

Very truly yours,

John P. Fowler
Deputy City Manager

JLS:WRK:hb

SUBLEASE
OF
LANDS IN CITY OF SAN DIEGO AGRICULTURAL PRESERVE

SAN PASQUAL VINEYARDS, a California corporation, hereby subleases certain of its lands in the agricultural preserve of the City of San Diego, in San Pasqual Valley, to _____
EVERGREEN DISTRIBUTORS, INC. dba EVERGREEN NURSERY

hereinafter designated "Lessee." The sublease is based upon a lease from the City of San Diego to San Pasqual, originally made in 1972 and amended several times thereafter. Copies of this lease have been furnished to Lessee. It is understood and agreed that the terms of the lease to San Pasqual govern all activities on the land, and that Lessee is bound thereby regardless of any provision of this sublease.

The sublease is made upon the following terms and conditions:

1. Premises. The lands leased to Lessee are all those portions of the lease south of Highland Valley Road which are not presently in use by San Pasqual or other of its sublessees. Generally, this constitutes the entire leasehold interest lying generally southwest of the road running perpendicular to Highland Valley Road and traversing the leasehold from the windmill and well on the north to the ranch residence on the south.

In cooperation with the Property Department of the City of San Diego, San Pasqual and Lessee will by an expeditious and economic means obtain a map of the premises to be leased, and based upon the map will calculate to the nearest acre the area of land to be leased. The lease will not include the ranch house or lands presently used in conjunction therewith surrounding the house.

2. Rent. Lessee shall pay San Pasqual rent calculated at the rate of \$300 per acre per year, payable annually in advance, as of April 16 of each year. The payment made for the first year, commencing April 16, 1986, shall be \$15,000, based upon an assumption of at least fifty acres in the leasehold. When the calculation of acreage is completed, as provided in paragraph 1 hereinabove, Lessee shall pay such additional amount as may be shown due as a result of acreage in excess of fifty acres. Should areas of the leasehold be made available to Lessee in the future which were not originally included in the sublease (acceptance of which is subject to the consent of Lessee) the rent shall be adjusted prospectively at the same per-acre rate. The per-acre rate shall be adjusted every other year (the first year being that commencing April 16, 1988) based upon changes (either increases or decreases) in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach-Anaheim, California. The dates to be used for

comparison purposes shall be those as close to the commencement date of this lease as the publication so designated contains. Should the indicated Index cease to exist, or be modified, the index then used shall be that which measures consumer prices of a nature as close as may be possible to that selected above.

3. Term. The sublease term shall commence on April 16, 1986, and continue for a period of five years. Lessee shall have the option of extending the term of the lease for three additional terms of five years each, thus constituting a total lease term of twenty years. The option to extend shall be executed by the delivery from Lessee to San Pasqual of a written notice of election to extend the lease for an additional five-year term, which notice shall be given not later than one year before the expiration date of the term in question, but not more than eighteen months before the expiration date of the term in question.

4. Use of Premises. Lessee shall use the premises for planting and growing ornamental plants, shrubs or trees, and generally for the operation of a wholesale horticultural nursery. Lessee shall at all times restrict use of the land to those activities permitted by the zoning and other applicable land regulations. To the extent required by the City of San Diego, Lessee shall prepare and deliver a statement of intended use, to which Lessee shall thereafter comply unless and until a modification in the statement is made,

delivered and approved by San Pasqual and by the City. San Pasqual and Lessee acknowledge that they intend to continue agricultural activities on adjacent lands, and each commits to operate and maintain his area in a manner compatible with maintenance of adjacent operations. Each party will control irrigation, spraying, dusting and weed control so as to avoid imposition of migrating problems on the neighbor's lands.

5. Water. San Pasqual presently benefits from a six-inch water main running the length of the valley from the existing Metropolitan Water aqueduct to two entrances on the leasehold. San Pasqual presently operates the two existing outlets from this six-inch line, utilizing filters and fertilizer injection systems at each outlet. San Pasqual will continue to use these two outlets. Lessee will install a new outlet, at such location and in such size as may be desired, and will install a reliable water meter for the purpose of metering Lessee's water use. San Pasqual, on behalf of itself and all other sublessees, commits within a reasonable time to install water meters at its locations of use. The parties agree to cooperate in the monitoring of water use and the division of the water bill which presently is a unified bill from the City of San Diego to San Pasqual. Lessee commits to pay its share of this water bill within ten days of billing from San Pasqual. The parties also agree to cooperate in terms of water use, knowing that some scheduling of irrigation during hot months may be required

when full use of the land is made. Should a break occur in the main six-inch line, or should any other maintenance expense be incurred in connection with the principal water source, the parties agree that the cost of repair or maintenance shall be allocated to the various parties using the water on the basis of the acreage of their respective holdings. Until and unless a different acreage is agreed upon, the acreage shall be deemed roughly equal between San Pasqual and its other sublessees and Lessee, so that costs would be shared equally.

6. Buildings. Lessee may construct greenhouses or other structures on the leasehold premises, provided only that whatever construction is accomplished be done in accordance with building and permit requirements of the City of San Diego. Lessee understands the provisions of the lease from the City, which under certain circumstances result in reversion of land improvements to the City on termination of the lease.

7. San Pasqual's Obligation. San Pasqual will make regular payments to the City of San Diego of the City's share in rentals paid by Lessee. San Pasqual will also do everything else required of it as lessee from the City to the end that the lease shall continue in full force and effect, affording Lessee continuous and quiet possession of the premises. Should San Pasqual's status as lessee from the City for any reason be modified, it will exert its best efforts to preserve the rights of Lessee so that its possession of the premises

will be continued.

8. Default by Lessee and Termination. Should Lessee fail to pay rent when due, fail to pay its water bill after billing of same, fail to participate in maintenance of the main water line, or fail in the performance of any other obligation of substance imposed by the terms of this sublease, or by the lease from the City to San Pasqual, either the City or San Pasqual may give notice to Lessee of the default, requiring that the same be remedied within 30 days. If the default be not remedied within the 30-day period, the party giving notice may thereupon by further notice cause the lease to be terminated. This power to terminate the lease shall be at the option of San Pasqual, and shall be in addition to other remedies San Pasqual may have, including an action at law for damages.

9. Representations. San Pasqual has made no representations whatsoever to Lessee with respect to the status of the land, its agricultural suitability for Lessee's purposes, or the land use regulations of the City of San Diego or of the Property Department thereof. Lessee is an entity experienced in horticultural and agricultural operations, and relies upon its own expertise in such matters.

10. Existing Improvements. The land at present is improved with an underground irrigation system, an above-ground drip irrigation system, grape-stakes, wire trellises, and end-posts. Said improvement shall be a part of this lease and

available for the use of the lessee at his discretion. Should the lessee elect to abandon or remove any portion, those materials shall be, to the extent possible, made available to San Pasqual for its future vineyard use.

11. Property Taxes. Lessee shall undertake and pay the property taxes which are or may be assessed against the "possessory interest" represented by the lease, and also all taxes which may be assessed upon personal property or improvements constructed or utilized on the leasehold by Lessee. In the event that the tax bill is not separated by the San Diego County Assessor, the possessory interest tax for the Highland Valley Road parcel shall be divided between San Pasqual and its other lessees and Lessee on the basis of acres utilized, and Lessee shall reimburse San Pasqual for that portion of tax represented by its acreage.

12. Insurance. Lessee agrees to maintain liability insurance for its activities on the premises in such amount as may be required by the City of San Diego, and to include the City of San Diego and San Pasqual Vineyards as additional insureds on its policy.

13. Approval by City. This sublease shall be and become effective only upon its approval by the City of San Diego. Lessee shall be privileged to take possession and commence work on the land upon receiving such approval

as in its own discretion is sufficient to warrant such
action.

Dated:

Mark L. Collins

Mark L. Collins, President
EVERGREEN DISTRIBUTORS, INC.

SAN PASQUAL VINEYARDS

By Charles W. Froehlich, Jr.
Charles W. Froehlich, Jr.

Consented to by
City of San Diego

By _____

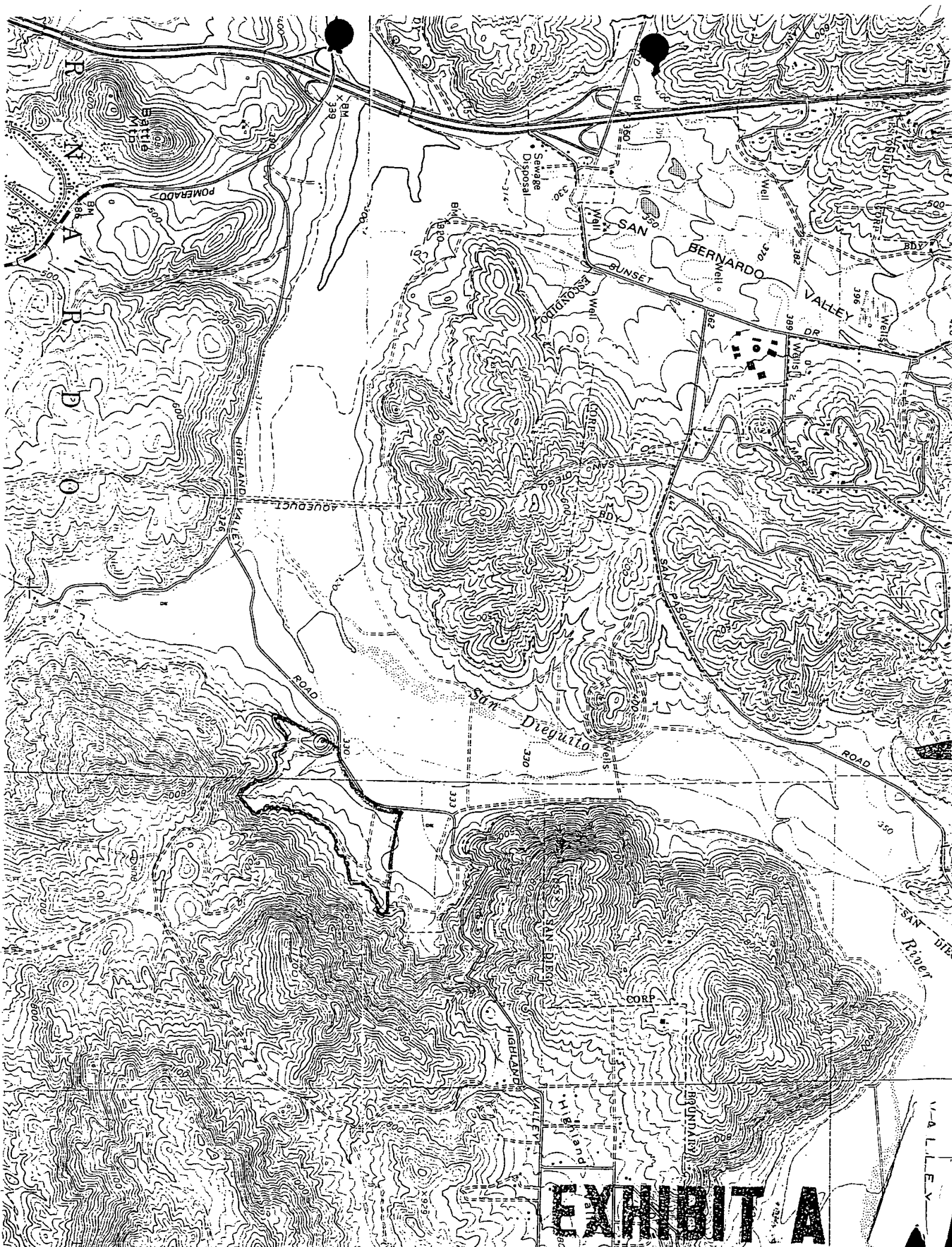


EXHIBIT A