

CALENDAR ITEM

68

A 33, 56

02/07/17

W 27072

S 16, 28, 40

K. Foster

**CONSIDER APPROVAL OF THE 2017 CATEGORY 1
COLORADO RIVER BENCHMARK RENTAL RATE**

INTRODUCTION:

Through this staff report, staff recommends the Commission approve the 2017 Category 1 Colorado River Benchmark, which will inform recommended rents for leases authorizing the use and occupation of sovereign lands in the Colorado River located in San Bernardino, Riverside, and Imperial Counties.

OVERVIEW OF BENCHMARKS FOR RENTAL RATES:

Benchmarks are used to establish uniform rental rates in specific geographic regions with large concentrations of similar facilities, mostly private recreational improvements within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) For proposed leases involving certain types of structures in regions where benchmarks have been approved, Commission staff will recommend an annual rent based on the applicable benchmark rental rate and the lease area. Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area. Generally, Commission staff updates the benchmarks for rental rates every five years. The use of benchmarks not only improves consistency and transparency throughout a geographic region, it also improves staff efficiency in setting and adjusting rent for large numbers of leases, saving time and money for both the applicant and the State.

The Commission has two types of benchmarks for rental rates:

- Category 1, which are generally applied to private docks, piers, and buoys; and
- Category 2, which are generally applied to cantilevered decks, sundecks, or other non-water dependent uses.

A map showing all the Commission's current benchmark areas is attached as Exhibit A ([Benchmark Map](#)), and a list of all the Commission's current benchmark rental rates is attached as Exhibit B ([Current Benchmark Rates](#)).

CALENDAR ITEM NO. 68 (CONT'D)

Category 1 Benchmark Methodology

The Colorado River Benchmark was first used by the Commission in 2012. The current methodology is based on the principle of substitution. The first step in setting the Colorado River Benchmark is to survey local marinas to determine their rental rates. Marinas usually rent their slips on a per lineal foot basis, based on the length of the slip or vessel. For benchmark purposes, the average surveyed rental rate is used. This rate is multiplied by the average or typical berth length as indicated by the survey data. Based on these inputs, the annual gross income is calculated. The State's rent is based on a five percent rate of return of this annual income. It represents a fair market compensation for the use of State-owned submerged land. The State's rent is then converted to a per square foot basis using a table calculated by a Department of Boating and Waterways (now California State Parks Division of Boating and Waterways) publication titled "Layout and Design Guidelines for Marina Berthing Facilities."

Category 1 Colorado River Benchmark

As shown in Exhibit B, the 2012 Category 1 Colorado River Benchmark rate is \$0.146 per square foot. This rate is generally applied to facilities used for the docking and mooring of boats and other uses along the Colorado River where an individual appraisal of sovereign land is not cost effective to prepare.

Using the methodology described above, Commission appraisal staff surveyed five marinas located on the Colorado River, and calculated a 2017 Category 1 Colorado River Benchmark rate of \$0.171 per square foot.

Table 1 summarizes the comparison between the 2012 and 2017 Category 1 benchmarks for rental rates, expressed on a per square foot (sf) basis.

TABLE 1

Benchmark	2012	2017
Category 1 Colorado River	\$0.146/sf	\$0.171/sf

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5;
California Code of Regulations, title 2, sections 2000 and 2003.

CALENDAR ITEM NO. 68 (CONT'D)

Public Trust and State's Best Interests Analysis:

Article 16, Section 6 of the California Constitution specifically prohibits the Legislature from making or authorizing any gift of public money or thing of value to any individual, municipality, or corporation. A 'thing of value' includes the use of State-owned land for private benefit with no rent or compensation for such use.

Under title 2, division 3 of the California Code of Regulations, and the Public Resources Code, the Commission has broad discretion in all aspects of leasing state lands, including the method or amount of rent that is most appropriate, and how rent should be adjusted during the term (Cal. Code Regs., tit. 2, § 2000, subd. (b)). Rents must be in the best interests of the State, and may be based on one or more of the following methods, including, but not limited to: nine percent of appraised land value; a percentage of annual gross income, where the percentage is based on an analysis of the market for like uses and other relevant factors; a comparison to rents for other similar land or facilities; benchmarks for regions with large concentrations of similar facilities, with benchmark rental rates to be based on analysis of similar or substitute facilities in the local area; other such methods or information that are based on commonly accepted appraisal practices and principles; and for leases for recreational piers or buoys, rent shall be based on local conditions and local fair annual rental values. (Cal. Code Regs., tit. 2, § 2003 et seq.; Pub. Resources Code, § 6503.5 et seq.)

The Commission may consider the amount of rent the State would receive under various rental methods, and whether relevant, reliable and comparable data is available concerning the value of the leased land in determining which rent method should apply (Cal. Code Regs., tit. 2, § 2003, subd. (d)(1)(2)).

Use of benchmarks improves the consistency and transparency of how the Commission establishes rent throughout a specific geographic region for similar facilities. It also improves staff efficiency in setting and adjusting rent for large numbers of leases and saves time and money for both the applicant and the State. Approval of the new benchmark rental rates will not result in a change in the use of public resources or the impacts thereto, and taking into account the requirements discussed above, provides a reasonable method for determining rents in the geographic regions covered by the benchmarks. Commission staff believes approval

CALENDAR ITEM NO. **68** (CONT'D)

of the new benchmarks does not have an impact to the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. In 2012, the Commission reviewed the current leasing practices including the use of benchmarks for recreational piers and buoys in Lake Tahoe ([Calendar Item 82, May 24, 2012](#)).
2. In 2016, the Commission reviewed and approved updates to the 2016 Category 1 Southern California Benchmark and Category 2 Huntington Harbour Benchmark rental rates ([Calendar Item 65, October 13, 2016](#)).
3. This action is consistent with Strategy 2.1 of the Commission's Strategic Plan to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore; and Strategy 2.2 to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
4. Approval of the 2017 Category 1 Colorado River Benchmark rental rate is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

- A. Benchmark Map
- B. Current Benchmark Rates
- C. 2017 Category 1 Colorado River Benchmark Memorandum

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the benchmark will not result in a change in the use of public resources or the impacts thereto, does not have an impact to the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **68** (CONT'D)

AUTHORIZATION:

Approve the 2017 Category 1 Colorado River Benchmark rental rate of \$0.171 per square foot, effective February 7, 2017.

EXHIBIT B

State Lands Commission Benchmarks

Location	Rental Rate (\$/SF)	Last Updated	Proposed Update
Category 1			
Colorado River	\$ 0.146	January 2012	2017
San Francisco Bay Area	\$ 0.198	June 2016	2021
Lake Tahoe Berths	\$ 0.79	July 2012	2017
Lake Tahoe Buoys*	\$ 377	July 2012	2017
Sacramento River	\$ 0.214	March 2015	2020
Delta Area	\$ 0.165	March 2015	2020
Southern California	\$ 0.374	October 2016	2021
Tomales Bay Berths	\$ 0.114	December 2015	2020
Tomales Bay Buoys*	\$ 125	December 2015	2020
Category 2**			
Sandy Beach	\$ 2.16	May 2013	2018
Black Point	\$ 0.35	May 2015	2020
Huntington Harbour	\$ 31.50	October 2016	2021
Solana Beach	\$ 49.50	September 2012	2017

*per each

** The Category 2 Benchmark may be discounted to reflect that the sovereign land being leased may not have the same utility as the upland property.

Note: Benchmarks are generally updated every five years.

State of California

State Lands Commission

Memorandum

Date: January 4, 2017

To: Brian Bugsch, Chief **RBB**
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong, Associate Property Appraiser **CW**
Land Management Division

Subject: Colorado River Category 1 Benchmark
Colorado River

As requested, I have updated the Category 1 benchmark for the Colorado River. The benchmark was last updated in 2012. The current update follows essentially the same methodology as used in the prior benchmark. Reference is made to the 2012 study for additional background material that may be needed for the reader to more fully understand what the benchmark is used for and how it is set.

The recommended benchmarks are summarized in the following table with the 2012 benchmarks.

COLORADO RIVER BENCHMARK SUMMARY		
Benchmark Date	2012	2016
Land Value (Per Acre)	\$70,664	\$82,926
Rental Rate (Per Sq. Ft.)	\$0.146	\$0.171

It should be noted that this research does not constitute an appraisal as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). Rather, this research represents a correlation of a range of market rents into a single annual lease rate to be used as the benchmark for private recreational facilities (e.g. docks, piers, and buoys) located on the Colorado River.

Presented on the following pages are the introduction, the scope of the current research, and discussions of the pertinent findings resulting in the updated benchmark rental rates.

Introduction

Leases are issued by the Commission for private recreational facilities such as docks, piers, and mooring buoys. These facilities offer many of the same amenities as a commercial marina, such as a place for the docking and mooring of boats and the loading and unloading of passengers and equipment. In this manner, these privately-owned facilities represent a substitute for a commercial marina slip. Accordingly, the method of valuation used in estimating a fair return and a fair rental value in this analysis is based on what an individual would pay for a comparable substitute site in a commercial marina. The real estate economic principle that this method of valuation is based upon is known as the “Principle of Substitution”.

The Principle of Substitution states that “when several similar or commensurate commodities, goods, or services are available, the one with the lowest price will attract the greatest demand and widest distribution.”¹

Since a Commission-leased site for a privately-owned pier or dock is a fairly good substitute for a marina slip, a lessee of the state land should pay a similar amount for the leased site as the state would receive for leasing the land to a commercial marina.

Scope

The scope of the research included the following:

- Identifying marinas in the Colorado River area.
- Surveying the marinas as to the number and type of berths/slips, occupancy rate, mooring sizes and rates.
- Compiling the survey results into averages for slip size and rate.
- Using the “Layout and Design Guidelines for Marina Berthing Facilities” publication (last updated July 2005) from the State Department of Boating and Waterways to determine the amount of submerged land area necessary to accommodate a given berthing size.
- Calculating the annual rental rate(s) using the above information and State valuation guidelines.

A total of 20 marinas were investigated. Of the 20 marinas, a total of five marinas were surveyed on the attached Marina Survey spreadsheet. The marinas excluded from the survey consist of three marinas which are rented on a daily or short-term basis only, six marinas which are only available to members/guests of private clubs or resorts, three marinas which only have rent-free courtesy docks or mooring poles, two marinas which had been shut down, and one marina which did not return any phone calls or emails. The five marinas used in this analysis rent slips on a monthly basis, which is considered closest to the long-term use of a private dock by a Commission lessee.

¹ The Dictionary of Real Estate, Fifth Edition, page 190, Appraisal Institute, 2010.

Methodology

In order to determine the value of the site, it will be necessary to determine: what income can typically be generated by a commercial marina; the area occupied by a marina slip in a well-designed marina; what the rental charge would be for a typical sized boat; and the rate of return the state should receive for the use of its land.

The Commission typically charges 5 percent to 6 percent of gross income for boat berthing for sites leased to commercial marina operators, with most of the leases set at 5 percent of gross income.

The Commission has a set rate of return of 9 percent of the appraised value of the leased land.²

Berth/Slip Rent

The northernmost boundary of the Colorado River Benchmark is generally considered to be the Tri-State Area where California, Arizona, and Nevada meet in the Colorado River. The southernmost boundary of the Colorado River Benchmark is generally considered to be where California, Arizona, and Mexico meet in the Colorado River.

Within these identified boundaries, the survey found that average berth size was approximately 24 linear feet. By contrast, a 25-foot length was used in the 2012 Colorado River Benchmark Update. The discrepancy of average berth sizes is attributed to the accuracy of the data provided by the marina operators because it is believed that the marinas have not significantly changed since 2012.

Berthing rates are reported on a per lineal foot basis. The berthing rate based on data collected ranged from \$3.56 to \$8.26 per linear foot and had an average of \$7.02 per lineal foot.

Rates have been converted to a per square foot basis for use by the Commission in determining lease amounts based on the set rate of return of 9 percent of appraised value.

The benchmark rental rate for berths is calculated by multiplying the average berth length by the average rental rate. This product is then multiplied by 12 months to arrive at the gross annual income. The gross annual income is multiplied by 5 percent to get the income attributable to the submerged land. The income attributable to the submerged land is then divided by the amount of submerged land needed to accommodate the average berth length within a marina.

The submerged land area needed to accommodate an average berth is found in a publication entitled "Layout and Design Guidelines for Marina Berthing Facilities"

² Per the California Code of Regulations, Title 2, Division 3, Chapter 1, Article 2, Section 2003 Rental.

published in July 2005 by the State Department of Boating and Waterways. This publication provides formulas and tables for calculating the submerged land area needed to accommodate various sizes and layouts of berths in marinas. Among other variables, the formulas take into account the berth length, berth layout (single vs. double), and the type of vessel (powerboat vs. sailboat). The submerged land area used in this benchmark analysis is based on a double berth layout (on the premise that it was the most economically efficient for the marina operator).

From the tables in the publication, a submerged area of 590 square feet is shown as being necessary to accommodate the 24-foot average slip length indicated by the survey for the Colorado River area. Taking all of the aforementioned into account, the current benchmark rental rate and land value for the Colorado River area is calculated as follows:

- Average berth rate: \$7.02/linear foot
- Average boat length: 24 linear feet
- Submerged land area necessary to accommodate a typical boat slip: 590 sq. ft.
- California State Lands Commission set rate of return: 9 percent

$24 \text{ linear feet} \times \$7.02/\text{linear foot} \times 12 \text{ months} = \$2,021.76$

$\$2,021.76 \times 5\% \text{ of gross income} = \101.09

$\$101.09 \div 590 \text{ square feet} = \$0.171 \text{ per square foot rental rate}$

$\$0.171/\text{square foot} \times 43,560 \text{ square feet} = \$7,463.38 \text{ per acre rental rate}$

$\$7,463.38 \div 9\% = \$82,926 \text{ per acre land value (or } \$1.90 \text{ per square foot value land value)}$

Benchmark Rental Rate = \$0.171 per sq. ft.

Benchmark Land Value = \$82,926 per acre

The indicated benchmark rental rate for the Colorado River area is \$0.171 per square foot. In contrast, the 2012 benchmark was \$0.146 per square foot. The new benchmark therefore represents an overall increase of just over 2 cents (\$0.025) from the 2012 benchmark.