

**STAFF REPORT**

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V. Caldwell

**CONSIDER APPROVAL OF THE 2020 CATEGORY 2 BLACK POINT  
BENCHMARK RENTAL RATE**

**PARTY:**

California State Lands Commission

**LAND TYPE AND LOCATION:**

Sovereign land in the Petaluma River near Black Point, Marin County.

**INTRODUCTION:**

As described in this staff report, staff recommends that the Commission approve the 2020 Category 2 Black Point Benchmark, which will inform recommended rents for leases authorizing the use and occupation of sovereign land in the Petaluma River.

**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, 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, staff updates the benchmarks for rental rates every 5 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.

The Commission has two types of benchmarks for rental rates:

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

This item addresses the Category 2 benchmark for the Black Point area. A map showing all the Commission's current benchmark areas is attached as Exhibit A, and a list of all the Commission's current benchmark rental rates is attached as Exhibit B.

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### **Category 2 Benchmark Methodology**

The Commission has used the Black Point Benchmark since the early 2000s. It was last updated in 2015. Category 2 benchmarks are based on nearby upland land values because the improvements (residences, decks, or certain other non-water-dependent encroachments) generally represent an extension of the residence or private backyard of the upland residence, a purpose unrelated to the docking and mooring of boats.

Staff uses the following general process to establish and update a Category 2 benchmark. First, staff researches and identifies recent nearby upland property sales. If vacant land sales are not available and only improved land sales are found, then the assessed improvement values are subtracted from the sales prices to reflect the land value of the sale property. Next, staff analyzes the sales data and determines a per-square-foot value that is representative of the area.

An annual rent per square foot is calculated as 9 percent of the per-square-foot sale value. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(1).) The Category 2 benchmark may further be discounted to reflect that the sovereign land, to be leased, may not have the same utility or intensity of use as the upland properties from which the data were drawn, due to topography or other physical characteristics, the nature of the proposed sovereign land use, or certain legal constraints, but nevertheless, still contributes to the value of the upland property.

### **Category 2 Black Point Benchmark**

Using the methodology described above and as described in more detail in Exhibit C, staff researched recent sales of vacant residential lots that front and have access to the Petaluma River. Eleven vacant lots were identified. The sales occurred between January 2016 and November 2019. Three of the 11 vacant residential lot sales have water-related amenities. The sales of those three lots range from a low of \$25,000 to a high of \$163,000 with an average of \$112,667. The sales were converted to price per square foot of land area and ranged from \$3.77 to \$6.08, with a mean unit sales price of \$5.26 per square foot.

In contrast, the eight vacant residential lots without water-related amenities range from a low of \$4,000 to a high of \$360,000 with an average of \$208,063. The sales were converted to price per square foot of land area and ranged from \$0.40 to \$9.10, with a mean unit sales value of \$4.52 per square foot. Residential properties located along a river typically command higher prices for their superior amenities, including favorable scenic views and convenient access to water-related recreational uses in comparison to sales located more inland. Vacant sales with similar water-related amenities sold approximately 16 percent higher than the vacant sales without water-related amenities, therefore a premium lot adjustment of 15 percent was deemed appropriate and added to the average

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\$4.52 per square foot. The market value for the upland property is therefore set at \$5.20. Staff considers this a reasonable unit value for the upland residential property.

The undiscounted benchmark rate, with the 9 percent rate of return applied, is \$0.47 per square foot. This benchmark rate applies to residential encroachments that should be given no reduction in utility or intensity of use as compared to the upland land value. For features such as an open or covered deck, staff may consider application of a discount.

The table below summarizes the comparison between the 2015 and 2020 Category 2 benchmark rental rates, expressed on a per-square-foot (sf) basis.

Benchmark	2015	2020
Category 2 Black Point	\$0.35/sf	\$0.47/sf

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

**Public Trust and State’s Best Interests Analysis:**

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. (Cal. Const., art. XVI, § 6.) A “thing of value” includes the use of State-owned land, and to allow its use for private benefit with no rent or compensation for such use would constitute an impermissible gift.

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. (Pub. Resources Code, §§ 6501.1, 6503, 6503.5; Cal. Code Regs., tit. 2 § 2000, 2003.) 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: 9 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

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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; Pub. Resources Code, § 6503, 6503.5.)

In determining which rent method should apply, 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. (Cal. Code Regs., tit. 2, § 2003, subds. (d)(1), (2).)

Use of benchmarks improves the consistency and transparency of how the Commission establishes rent throughout a specific geographic region for a certain category of leases. It also improves staff efficiency in setting and adjusting rent for large numbers of leases. Approval of the new benchmark rental rate will not result in a change in the use of, or impacts to, Public Trust resources, and considering the requirements discussed above, provides a reasonable method for determining rents in the geographic region covered by the benchmark. Adjustment of the benchmark assures that the people of the State are fairly compensated according to current market rates for the private use of State-owned land, consistent with the California Constitution. Staff believes approval of the new benchmark will not substantially interfere with Public Trust uses and values and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. 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.
2. Approval of the 2020 Category 2 Black Point 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).

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**EXHIBITS:**

- A. Benchmark Map
- B. Current Benchmark Rates
- C. 2020 Category 2 Black Point Benchmark Memorandum

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

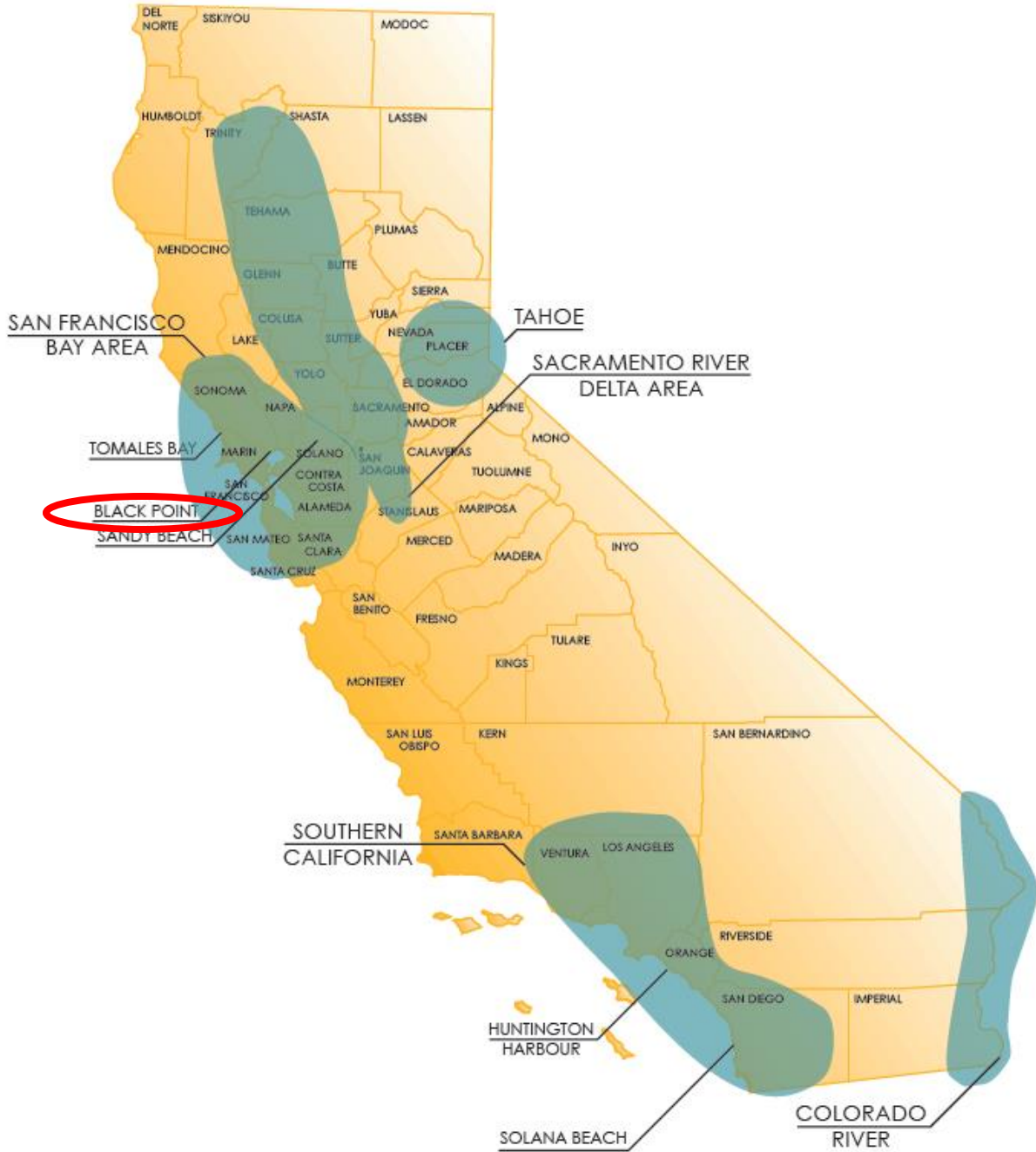
Find that approval of the proposed benchmark will not result in a change in the use of, or impacts to, Public Trust resources; will not substantially interfere with Public Trust uses and values; and is in the best interests of the State.

**AUTHORIZATION:**

Approve the 2020 Category 2 Black Point Benchmark rental rate of \$0.47 per square foot, effective June 23, 2020.

# EXHIBIT A

## CALIFORNIA STATE LANDS COMMISSION BENCHMARKS



## EXHIBIT B

### Benchmarks

#### Category 1

Location	Rental Rate (\$/SF)	Last Updated	Proposed Update
Colorado River	\$0.171	February 2017	2022
San Francisco Bay Area	\$0.198	June 2016	2021
Lake Tahoe Berths	\$0.79	February 2018	2023
Lake Tahoe Buoys*	\$377	February 2018	2023
Sacramento River	\$0.214	February 2020	2025
Delta Area	\$0.168	February 2020	2025
Southern California	\$0.374	October 2016	2021
Tomales Bay Berths	\$0.114	December 2015	2020
Tomales Bay Buoys*	\$125	December 2015	2020

#### Category 2

Location	Rental Rate (\$/SF)	Last Updated	Proposed Update
Sandy Beach	\$3.69	August 2018	2023
Corte Madera	\$5.40	June 2019	2024
Black Point	\$0.4735	June <del>2020</del> 2015	2020
Huntington Harbour	\$31.50	October 2016	2021
Solana Beach	\$46.80	October 2017	2022

\*per buoy

\*\* 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.