Meeting Date: 12/17/20
Work Order Number: W27247
Staff: D. Tutov, K. Foster

Staff Report 28

PARTY:

California State Lands Commission

PROPOSED ACTION:

Approve the 2020 Category 1 Tomales Bay Berths and Category 1 Tomales Bay Buoys benchmark rates

LAND TYPE AND LOCATION:

Sovereign land in Tomales Bay, Marin County

BACKGROUND:

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, they also improve 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 two Category 1 benchmarks for Tomales Bay: one for berths, and one for buoys. 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.

Category 1 Benchmark Methodology

Leases are issued by the Commission for private recreational facilities such as docks, piers, and buoys/mooring poles. 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 berth/buoy. Accordingly, the method of valuation used in estimating a fair return and a fair rental value is based on what an individual would pay for a similar substitute site in a commercial marina. Since a Commission-leased site for a privately owned pier or dock is a reasonable substitute for a marina berth, a lessee occupying state land should pay a similar rate for the leased site as the state would receive for leasing the land to a commercial marina.

The current methodology for setting rent for berthing vessels at docks and piers occupying state-owned sovereign land is based on the principle of substitution described above. The first step in setting the Tomales Bay Berths Benchmark is to survey local marinas to determine their rental rates. Marinas usually rent their berths on a per-linear-foot basis, based on the length of the berth or vessel. For benchmark purposes, the average surveyed rental rate is used. The rate is multiplied by the average or typical berth length as indicated in the survey data. Based on these inputs, the annual gross income is calculated. For Category 1 benchmarks the State's rent is based on a 5 percent rate of return of this annual income, which represents a comparable fair market compensation rate for the use of State-owned sovereign land. The State's rent is then converted to a per-square-foot basis using a table calculated by the California State Parks Division of Boating and Waterways 2005 publication titled "Layout and Design Guidelines for Marina Berthing Facilities" (DBW berthing publication). 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 account for the berth length, berth layout (single or double), and the type of vessel (powerboat or sailboat). The publication can be requested from the Department of Boating and Waterways here.

Category 1 Tomales Bay Benchmarks

The Commission has been using the Tomales Bay benchmarks since 2010. They were last updated in 2015, when the rates were set at $0.114 per square foot for berths and $125 per buoy.

For determining the proposed new rental rates, the following summary describes the methodology; more detailed information is included in Exhibit C. A total of four marinas and/or buoy fields in Tomales Bay were identified. However, due to the lack of comparable rental data information for three of the locations (Marconi Cove Marina, Inverness Yacht Club, and Lawson's Landing), the Tomales Bay Resort (previously Tomales Bay Lodge and Marina, and the Golden Hinde Marina) was the only marina located in Tomales Bay used in the analysis for this benchmark.

Because of the limited number of marinas in Tomales Bay, a survey was done of other nearby marinas outside of Tomales Bay that might be used in absence of the three marinas acknowledged above. Four nearby marinas with slips were also used: Spud Point Marina, Mason's Marina, and Porto Bodega in Bodega Bay, approximately 20 miles northwest; and the Petaluma Marina on the Petaluma River, approximately 24 miles northeast. Thus, a total of five commercial marinas with slips were used in the analysis of the current Tomales Bay benchmark.

These five marinas with berths reported a total of 652 berths available to the public, or an average of 130 berths per marina. The average occupancy was reported at 85 percent.

The survey found that berth sizes in Tomales Bay, Bodega Bay, and the Petaluma River ranged from 12 to 80 linear feet, with an average of approximately 31 linear feet. Rent for berths is commonly expressed in terms of dollars per linear foot (per month). The survey data yielded an average rent for berths of $6.20 per linear foot.

The benchmark rental rate for berths is calculated by multiplying the average berth length by the average monthly rental rate. The 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.

Using the DBW berthing publication described above, 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) and represents an average of the powerboat and sailboat berths.

From the tables in the publication, a submerged area of 865 square feet is shown as being necessary to accommodate the 31-foot average slip length indicated by the survey.

Taking all the inputs into account, the proposed benchmark rental rate is calculated as follows:

31-foot average berth size x $6.20/linear foot average berth rate = $192.20/berth/month

$192.20/berth x 12 months = $2,306/berth/year

$2,306 x 5 percent of gross income = $115.30

$115.30 ÷ 865 square feet = $0.133/square foot

PROPOSED BERTHS BENCHMARK RENTAL RATE = $0.133/SQUARE FOOT

Other than the leases being issued by the Commission, there is no independent market for buoys in Tomales Bay. Therefore, the current minimum annual rent of $140 is proposed to be applied per buoy. The minimum rent for a Recreational Use lease is set by California Code of Regulations, title 2, section 2003, subdivision (b), and as revised by Commission action on June 28, 2019 (Item 92, June 28, 2019).

PROPOSED BUOYS BENCHMARK RENTAL RATE = $140/BUOY

The table below summarizes the comparison between the 2015 and 2020 benchmark rates.

Figure 1. Tomales Bay Benchmarks

Tomales Bay Benchmark	2015	2020
Category 1 Berths	$0.114/square foot	$0.133/square foot
Category 1 Buoys	$125	$140

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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 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), (d)(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.

CONCLUSION:

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 1 Tomales Bay benchmark rates 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. 2020 Tomales Bay Category 1 Benchmarks Memorandum

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the proposed benchmark rates 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:

1. Approve the 2020 Category 1 Tomales Bay Berths benchmark rate of $0.133 per square foot, effective December 17, 2020.

2. Approve the 2020 Category 1 Tomales Bay Buoys benchmark rate of $140 per buoy, effective December 17, 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	$0.47	June 2020	2025
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 5 years.

State of California State Lands Commission

Memorandum

To: Brian Bugsch, Chief
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

Date: October 7, 2020

From: Chaun Wong
Associate Property Appraiser
Land Management Division

Subject: Tomales Bay Category 1 Benchmark 2020 Marin County, California

As requested, I have updated the benchmark for General Leases – Recreational Use involving recreational piers and buoys/mooring poles at Tomales Bay, Marin County.

The Land Value per acre for berths/slips in 2015 was $55,178. The Land Value per acre for berths/slips in 2020 is $64,367. The Rental Value per square foot for berths/slips in 2015 was $0.114. The Rental Value per square foot for berths/slips in 2020 is $0.133. The per buoy/mooring pole rate in 2015 was $125, which was the minimum annual rent for recreational use per the California Code of Regulations § 2003 (b). The per buoy/mooring pole rate in 2020 is $140; the minimum annual rate for recreational use was adjusted in 2019. The swing area for buoy/mooring pole in 2015 was 30 feet and in 2020 is 31 feet.

Table 1. Tomales Bay Benchmark Summary

Benchmark Date	**2015**	**2020**
Berths/Slips Land Value (Per Acre)	$55,178	$64,367
Berths/Slips Rental Rate Land Value (Per Sq. Ft.)	$0.114	$0.133
Per Buoy/Mooring Pole	$125[1]	$140[2]
Swing Area	30 Feet	31 Feet

An appraisal is the act or process of developing an opinion of value that must be numerically expressed as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or numerical benchmark. This report constitutes an appraisal as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). Accordingly, this appraisal has been performed and the report has been prepared in substantial compliance with USPAP. The compiled research, analyses, and conclusions presented in this appraisal represent a correlation of market rents into

[1] The annual rent of $125 per mooring was based on the minimum annual rent.
[2] The annual rent is to be based on the current minimum annual rent of $140 per mooring. The minimums for all categories of lease type were increased in 2019, including the Recreational Use and Other lease types.

benchmark rental rates for private recreational facilities (e.g., docks, piers, and buoys/moorings) located in Tomales Bay. The benchmark is intended to be used by Commission staff for rent setting purposes.

Introduction

Leases are issued by the California State Lands Commission for private recreational facilities such as docks, piers, and buoys/mooring poles. 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/buoy. 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 similar substitute site in a commercial marina.

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 with boat slips and/or buoy fields in the Tomales Bay area.
- Surveying the marinas as to the number and type of moorings (berths/slips/buoys/mooring poles), occupancy rate, seasonal months (if applicable), mooring sizes, and rates.
- Compiling the survey results into averages for slip size, buoy/mooring pole size, and rate (incorporating seasonality, if applicable).
- 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 mooring size.
- Calculating the annual rental rate(s) using the above information and State valuation guidelines.

A total of four marinas and/or buoy fields in Tomales Bay were identified. However, one of these, the Marconi Cove Marina, is no longer in operation. The adjoining upland property is currently owned by the California Department of Parks and Recreation, which purchased the parcel in 2002. The Department intends to redevelop the upland site into a small camping facility; however, there are currently uncertainties around developing the site. Another marina, the Inverness Yacht Club, is a private club which is not open to the general public. The club’s water improvements consist of a pier and two small floating docks. Almost all of the boats at this marina are stored on land. There are no berthing rentals; rather members pay an annual membership. Then, there is Lawson’s Landing. In the 2015 benchmark rental survey, it was reported that Lawson’s Landing had a total of three mooring poles that were serviceable; two of which were being rented seasonally from April through October for approximately $100 per month. The third mooring pole was not being rented as it was being used for the marina

facility's private vessel. The rented mooring poles at Lawson's Landing were used as part of the analysis for the 2015 Tomales Bay Benchmark. However, when Lawson's Landing was surveyed for the current benchmark, it was reported that all structures, including the mooring poles would be removed by the end of summer 2020. According to the property manager, the mooring poles were no longer being rented. Due to the lack of comparable rental data information, these three marinas; Marconi Cove Marina, Inverness Yacht Club, and Lawson's Landing were not used in the analysis for this benchmark.

The fourth marina is Tomales Bay Resort (previously Tomales Bay Lodge and Marina and/or the Golden Hinde Marina) which has most recently reported 64 total slips. Of all the commercial marinas surveyed, Tomales Bay Resort is the only commercial marina located in Tomales Bay. Because of the limited number of marinas in Tomales Bay, a survey was done of other nearby marinas outside of Tomales Bay that might be used in absence of the three marinas acknowledged above. Several marinas with slips located on the northern and western shores of Bodega Bay within adjacent Sonoma County were identified. These are Spud Point Marina, Mason's Marina, and Porto Bodega. Outside of Tomales Bay, the marinas in Bodega Bay are most proximate to Tomales Bay, located approximately 20 miles to the northwest. Another marina identified is located on the northern shore of the Petaluma River, the Petaluma Marina. Petaluma Marina, also located within adjacent Sonoma County, is approximately 24 miles to the northeast of Tomales Bay. Thus, a total of five commercial marinas with slips were used in the analysis of the current Tomales Bay benchmark. All marina operators were contacted via telephone and/or email.

Methodology

In order to determine the value of the leased area (of a pier, buoy/mooring pole, etc.), 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% to 6% of gross income for boat berthing for sites leased to commercial marina operators, with most of the leases set at 5% of gross income.

The Commission has a set rate of return of 9% of the appraised value of the leased land. (Per the California Code of Regulations, Title 2, Division 3, Chapter 1, Article 2, Section 2003 Rental.)

In terms of buoys/mooring poles, the annual rent is based on an average of what commercial marinas pay the California State Lands Commission for the use of state land under buoys/mooring poles, which is 5% of the gross income attributable to boat berthing. However, as will be discussed in the Buoy/Mooring Pole Rent section below, because the indicated fair market annual rate per mooring is estimated to be less than the current minimum annual rent (Per the California Code of Regulations, Title 2,

Division 3, Chapter 1, Article 2, Section 2003(b).) for every lease category to which the benchmark would be applied, annual rent of $140 per mooring in Tomales Bay, based on the minimum annual rent, is recommended.

Berth/Slip Rent

The five marinas with slips reported a total of 652 berths/slips (slips and berths will be used interchangeably hereafter) available to the public, or an average of 130 berths per marina. The average occupancy was reported at 85%.

The survey found that berth sizes in Tomales Bay, Bodega Bay, and the Petaluma River ranged from 12 to 80 linear feet, with most being in the range of 25 to 35 linear feet. The average berth size was approximately 31 linear feet. Rent for berths is commonly expressed in terms of dollars per linear foot (per month). The survey indicated rental rates ranging from $4.16 to $7.16 per linear foot. (The commercial marina rates compiled reflect per month rental rates for the entire year. None of the marinas surveyed reported seasonal rates. All of the marinas surveyed were reportedly open year-round.) The average of the surveyed rents for berths is $6.20 per linear foot. In comparison, a 32-foot average berth length and an $5.37 per linear foot average for berths was surveyed in 2015. The discrepancy of average berth sizes is likely attributed to the accuracy of the data provided by the marina operators because it is believed that marinas have not significantly changed since 2015.

The benchmark rental rate for berths is calculated by multiplying the average berth length by the average monthly rental rate. The product is then multiplied by 12 months to arrive at the gross annual income. The gross annual income is multiplied by 5% (the rate of return that Commission staff typically charges as rent for commercial marinas) 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 Small Craft and Berthing Facilities” (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) and represents an average of the powerboat and sailboat berths.

From the tables in the publication, a submerged area of 865 square feet is shown as being necessary to accommodate the 31-foot average slip length indicated by the survey. Taking all of the aforementioned inputs into account, the current benchmark rental rate and land value are calculated as follows:

31’ avg. berth size x $6.20/LF avg. berth rate = $192.20/berth/month

$192.20/berth x 12 months = $2,306/berth/year
$2,306 x 5% of gross income = $115.30
$115.30 ÷ 865 sq. ft. = $0.133/sq. ft.
Benchmark Rental Rate = $0.133/sq. ft.
$0.133/sq. ft. x 43,560 sq. ft. = $5,793/acre
$5,793 ÷ 0.09 = $64,367/acre
Benchmark Land Value = $64,367/acre

Buoy/Mooring Pole Rent

Buoy/mooring pole rent is based on an average of what nearby commercial marinas pay the California State Lands Commission for the use of state land under buoys, which is 5% of the gross income attributable to boat berthing. (Buoys, mooring poles, and moorings are used interchangeably in the text hereafter. Moorings and buoys are estimated to have similar rental rates as mooring poles.) However, in the greater Tomales Bay area, there are no nearby marina facilities with rented buoys including the marinas located in the northern and western shores of Bodega Bay and the Petaluma River. Limited buoy rental data was also reported in the 2015 benchmark. Lawson's Landing previously reported a total of two rented mooring poles during the last benchmark, but as reported above, this is no longer the case.

Other than the leases being issued by the Commission, there is no independent market for buoys in Tomales Bay. Therefore, the current minimum annual rent of $140 is proposed to be applied per buoy. The minimum rent for a Recreational Use lease is set by California Code of Regulations, title 2, section 2003, subdivision (b), and as revised by Commission action on June 28, 2019 (Item 92, June 28, 2019).
Proposed Buoys Benchmark Rental Rate = $140/buoy

Conclusion

The 2020 Tomales Bay Category 1 Benchmark for Berths/Slips is $0.133/sq. ft. and for Buoys/Mooring Poles is $140 each.

Table 2. Marina & Buoy Field Survey

Name	County	Total Berths	Occupied Berths	Occupancy Rate	Slip Lengths (LF)	Average Length (LF)	Average Rent ($/LF/Mo.)	**Comments**
Tomales Bay Resort	Marin	64	64	100%	12 to 34	22	$6.68	No buoys; slips only. All berths are uncovered, and the average rent is $6.68/LF.
Spud Point Marina	Sonoma	257	252	98%	30 to 80	42	$7.00	No buoys; slips only. All berths are uncovered, and the average rent is $7.00/LF.
Mason's Marina	Sonoma	130	130	100%	30	30	$6.00	No buoys; slips only. All berths are uncovered, and the average rent is $6.00/LF.
Porto Bodega	Sonoma	56	51	91%	30 to 40	30	$4.16	No buoys; slips only. All berths are uncovered, and the average rent is $4.16/LF.
Petaluma Marina	Sonoma	145	49	34%	22 to 40	30	$7.16	No buoys, slips & ties only. All berths are uncovered, and the average rent is $7.16/LF. Total berths include 145 slips, 6 end ties, and 3 side ties.
Totals		652	546					
Average		130	109	85%		31	$6.20	