

Staff Report 02

PARTY:

California State Lands Commission

PROPOSED ACTION:

Approve the 2024 Category 2 Napa River benchmark rental rate.

LAND TYPE AND LOCATION:

Sovereign land in the Napa River, Napa County.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6321, 6321.2, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

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 for private benefit.

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 the appraised value of the leased land.
- 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.)

The Commission may consider the amount of rent the State would receive under various rental methods, and whether relevant, reliable, and comparable data are 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).)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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).) The use of benchmarks improves consistency, transparency, and efficiency in how the Commission establishes rent for large numbers of similar leases, saving time, resources, and money for both the applicant and the State. Periodic benchmark adjustments assure 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. Generally, staff recommend updates to the benchmarks every 5 years. The Commission's current benchmarks and benchmark map may be found at <https://www.slc.ca.gov/leases-permits/benchmarks/>.

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 protective structures, cantilevered decks, sundecks, or other non-water dependent uses.

The Commission has not previously set a Category 2 benchmark for the Napa River. Staff recommends setting a Category 2 Napa River benchmark to establish the fair rental value for non-water dependent uses extending onto and over sovereign

land in the Napa River. Such non-water dependent uses in the Napa River mostly consist of portions of homes, decks, and other residential-related improvements.

METHODOLOGY:

Category 2 benchmarks are based on and associated with nearby upland land values because sovereign lands generally do not sell in the open market. Improvements on sovereign land (for example, portions of homes, sundecks, porches, or other non-water dependent encroachments) represent an extension of the private yard of the upland residence onto sovereign land. This private residential use is a purpose unrelated to the traditional Public Trust consistent uses of the docking and mooring of boats.

Commission appraisal staff uses the following general process to establish and update a Category 2 benchmark. First, the staff conducts research to identify recent nearby upland property sales. The initial research seeks to identify vacant land sales only because the subject properties within the benchmark area are the underlying sovereign land, not the privately-owned residential improvements. If vacant land sales are unavailable, rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method is employed. For the improved residential sales deemed similar to the subject properties, the land values are extracted through use of the improvement percentage assigned by the local Assessor's Office. For instance, if a house sold for \$1,000,000 and had an improvement percentage of 40 percent, then the allocated value of the land is 60 percent, or \$600,000. For analysis purposes, the unit of comparison used is the price per square foot of land area. Next, staff analyzes the compiled sale data to determine a per-square foot value representative of the area. The benchmark is calculated by applying a 9 percent annual rate of return to the appraised value of the leased land consistent with California Code of Regulations, title 2, section 2003, subdivision (a)(1).

The Category 2 benchmark may then 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. While the subject sovereign properties contribute to the overall value of the upland properties, they may have physical characteristics which limit their development potential including their submerged nature, waterway location with limited access, sloping topography, unavailable offsite improvements, and no public utilities. Therefore, a discount may be warranted.

Using the methodology described above, Commission appraisal staff identified 28 home sales fronting Napa River near Milton Road in Napa County. The sales occurred between May 2020 and November 2023, with a sales price range of \$260,000 to \$1,595,000 and a corresponding land value range of \$26 to \$202 per square foot. Due to the physical uniqueness of each subject property and lack of significant land value trends relating to the comparable sales, the appraisal staff concluded that no particular sale was deemed a better indicator than any other sale in setting a land value benchmark. Therefore, an analysis of the overall dataset was warranted and deemed appropriate in concluding land value for the Category 2 Napa River benchmark. Based on all the data gathered and analyzed, appraisal staff concluded that a unit land value between the mean (\$82 per square foot) and median (\$78 per square foot) was reasonable for the typical upland residential property. The concluded land value based on these sales figures is \$80 per square foot. Taking all the previously described inputs into account, the proposed undiscounted rental rate for the Napa River Category 2 benchmark is calculated as follows:

$\$80 \times 9\% = \7.20 per square foot.

As previously mentioned, the Category 2 Napa River benchmark is a new benchmark proposed to the Commission. The methodology used is consistent with all other Category 2 benchmarks used by the Commission, and the data used to establish this specific proposed benchmark was derived exclusively from the upland land values, near Milton Road adjacent to the Napa River. The Commission is required by statute to charge fair market value for the use and occupation of its lands. Staff believes that use of this methodology and the proposed benchmark best achieve that statutory requirement.

This benchmark rate applies to non-water dependent encroachments that should be given no reduction in utility or intensity of use as compared to the upland land value. For features such as open or covered sundecks or porches, staff recommend the application of a discount up to 75 percent to reflect the reduced utility and intensity of use of the sovereign lands occupied. Other non-water dependent features such as artificial fill and enclosed residential spaces have the full capacity to be utilized as part of the upland residential property. Staff recommend little or no discount on these uses. This approach is consistent with how staff apply discounts for similar facilities throughout the state.

CONCLUSION:

Staff's methodology for setting the proposed Category 2 Napa River benchmark rental rate is consistent with the methodology used for the Commission's other Category 2 benchmarks, as well as all the relevant statutes and regulations that govern the Commission's rent-setting authority. Staff believes the recommended benchmark rate represents a fair and equitable rate for the type of use based on the most current and relevant data available. Approval of the new benchmark rental rate will not result in a change in the use of, or substantially interfere with or impact Public Trust resources. Staff believes that the benchmark provides a reasonable and consistent method for determining rent in the geographic coverage area and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. In 2014, the Commission adopted amendments to Sections 1900, 2002, and 2003 under articles 1 and 2 of title 2, division 3, chapter 1 of the California Code of Regulations that included regulations on rent-setting methods approving the use of benchmarks and the application of the Consumer Price Index ([Item 05, January 23, 2014](#)).
2. This action is consistent with Goal 4 of the Commission's Strategic Plan "Meeting Evolving Public Trust Needs," specifically Section 3 – "Maintain fiscal integrity through transparency, accountability", and subdivision 3.a. "Efficient and effective management of the revenue-generation portfolio."
3. Approval of the 2024 Category 2 Napa 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).

EXHIBIT:

- A. 2024 Category 2 Napa River Benchmark

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that approval of the Category 2 Napa River benchmark rental rate will not result in a change in the use of, or impact on, Public Trust resources; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Approve the 2024 Category 2 Napa River benchmark rental rate of \$7.20 per square foot, effective June 7, 2024.
2. Approve the application of up to a 75 percent discount to the Category 2 Napa River benchmark to adjust for any reduced utility or intensity of use of the sovereign land subject to this benchmark, effective June 7, 2024.

Exhibit A

State of California

State Lands Commission

Memorandum

Date: March 26, 2024

To: Brian Bugsch, Chief
Land Management Division

Grace Kato, Assistant Chief
Land Management Division

From: Chaun Wong
Associate Property Appraiser
Land Management Division

Subject: Napa River Category 2 Benchmark 2024 - Rental rate for non-water dependent use areas extending onto and over sovereign land in the Napa River near Milton Road, Napa County, California

As requested, I have conducted research relevant to establishing a benchmark rental rate for non-water dependent use areas extending onto and over sovereign land in Napa River near Milton Road, Napa County, California. These non-water dependent uses consist of porches, sundecks, portions of residences, and other residential-related improvements that extend onto and over sovereign lands and essentially represent extensions of the usable area of the adjoining residential lots.

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). The compiled research, analyses, and conclusions presented in this appraisal represent a correlation of residential land values into benchmark rental rates for non-water dependent use areas located on Napa River near Milton Road. The benchmark is intended to be used by Commission staff in negotiations with lessees. It should be noted that this appraisal has been performed and the report has been prepared in substantial compliance with USPAP as it relates to the value of sovereign land. Presented on the following pages are the introduction, the scope of the research, and discussions of the pertinent findings resulting in the benchmark rental rate.

Benchmarks establish uniform rental rates in specific geographic regions with concentrations of similar facilities within the Commission's jurisdiction. (Cal. Code Regs., tit. 2, § 2003, subd. (a)(5).) For proposed leases involving certain types of improvements or uses in regions where benchmarks have been approved, staff will recommend an annual rent based on the applicable benchmark 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 recommend updates to the benchmarks every

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5 years. The use of benchmarks improves consistency and transparency throughout a geographic region, 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.

Introduction

The subject properties consist of parcels of patented swamp and overflow (S&O) lands located in the Napa River near Milton Road. The uplands and adjoining S&O lands were subdivided and developed into small residential lots of various sizes. Access to the residential lots is via Milton Road, a street along the western bank of the Napa River. A portion of these subject properties are currently under lease. The uplands were originally sold as S&O 107, patented on September 3, 1877. The subject properties were subdivided mostly via two subdivision maps; Ingersoll's Cabin Site BK4 P626 in 1946 and Ingersoll's Riverfront Sites BK4 P661 in 1949. The California State Lands Commission performed a survey in 1953 at the ordinary high-water mark of the Napa River. Staff noted there were structures on about half of the subject properties surveyed. The majority of the encroachments noted were dock improvements. But, also mentioned were encroaching residences, cabins, decks, and areas of fill. A Record of Survey Map was recorded later that year.

Methodology

The Commission's authority to lease lands and charge rent comes from the California State Constitution, the Public Resources Code, and the California Code of Regulations.

The Commission's mandate to charge rent comes from the Gift Clause of the California State Constitution, which states in part that:

"The Legislature shall have no power to...make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever..." Cal. Const. Art. XVI -6.

Section 6503 of the Public Resources Code states that:

"The Commission shall appraise the lands and fix the annual rent or other consideration thereof."

The California Code of Regulations¹ provides the Commission with broad discretion in all aspects of leasing.

"Leases or permits may be issued to qualified applicants and the Commission shall have broad discretion in all aspects of leasing including category of lease or permit and which use, method or amount of rental is most appropriate...based on what it deems to be in the best interest of the State"

¹ Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2000, General (b).

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The Regulations then outline the types of leases and the methods of setting rent for each. Of these, the “9% of the appraised value of the leased land”² method is considered the most directly applicable. The land to be leased is sovereign land located waterward of the low water mark. Since there is not an active real estate market for sovereign land, the basis for the benchmark rental rate is the adjoining upland property. At Napa River near Milton Road, the adjoining upland property generally consists of single-family homes on residential lots. The rent to be set is based on the value of the underlying land and does not include the value of any improvements. Thus, for valuation purposes, the value of waterfront residential lots at Napa River near Milton Road is the basis of the rental rate.

The market value of residential land is typically estimated through use of the Sales Comparison Approach. In this approach, recent sales and current listings of similar properties are compared to the subject on the basis of pertinent factors such as location, size, shape, etc. Typically, an indication of value is then concluded based on a comparative analysis of these factors. Waterfront residential lots are typically valued on either a per-lot or on a per-waterfront-foot basis. However, because the lease areas generally do not represent a full residential lot, the unit of comparison used is the price per square foot of land area. Per Regulations, rent is then set based on 9% of the appraised value of the leased land. It should be noted that because this is a benchmark appraisal – intended to be applied to a number of different lease areas – there is no specific subject property or lease area. Accordingly, there are no specific adjustments (for location, size, shape, etc.) made. Instead, the benchmark rental rate is intended to represent the general characteristics of the benchmark’s geographic area.

Market Value of Upland Property

On LandVision³, a search was made to find recent sales⁴ of vacant residential lots, typical in size, fronting Napa River near Milton Road in Napa County. However, due to its built-up nature, no comparable sales of vacant waterfront residential lots were found. Rather than use comparable sales that do not front the water, which would necessitate adjustments for location, an allocation method⁵ is employed. For the improved residential sales deemed similar to the subject property, the land values are extracted through use of the improvement percentage assigned by the Napa County Assessor’s Office. For instance, if a house sold for \$1,000,000 and had an improvement

² Title 2, Administration, Division 3, State Property Operations, Article 2 Section 2003(a)(1).

³ LandVision is a map-based real estate application that provides real estate, government, and many other industries with comprehensive map-based property search, analysis, management, and presentation capabilities.

⁴ It should be noted that current listings were also considered, however, the sales utilized were deemed the strongest indicators of market value for the subject property.

⁵ Allocation is the general process of separating value between the component parts of a property. A method of estimating land value in which sales of improved properties are analyzed to establish a typical ratio of land value to total property value and this ratio is applied to the property being appraised or the comparable sale being analyzed.

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percentage of 40%, then the allocated value of the land is 60%, or \$600,000. For analysis purposes, the unit of comparison used is the price per square foot of land area.

Summarized in the Comparable Sales Table (see Table 2) are the pertinent details of 28 sales of single-family residences fronting Napa River near Milton Road in Napa County. The sales took place between May 2020 and November 2023. According to the Indications of Comparable Sales Table (see Table 3), the lot sizes range from 3,484 to 13,600 square feet, with a mean of 6,354 square feet and a median of 6,038 square feet. The sale prices for the waterfront lots ranged from a low of \$260,000 to a high of \$1,595,000, with a mean of \$925,107, and a median of \$885,000. According to the Assessor's allocations, the value of the land in these transactions accounted for between 15.81% and 84.21% of the total price. Based on these percentages, the value of unimproved residential waterfront land lies between \$26 and \$202 per square foot. The mean unit value is \$82 per square foot, while the median is \$78 per square foot.

Analysis of the sales revealed no recognizable trends relating to date of sale and land value. Analysis of the sales also revealed no recognizable trends relating to typical lot area and land value relationships (i.e., unit prices decreasing as sizes increase). The lack of a size/price relationship is illustrated in the following table. The presentation of the sales is based on the lot area (SF) of the sales, going from smallest to largest.

Table 1. Lot Area to Land Value Per SF Table

Lot Size (SF)	Land Value Per SF
3,484	\$129
3,824	\$144
4,331	\$104
4,821	\$93
5,221	\$202
5,221	\$91
5,227	\$86
5,227	\$86
5,537	\$99
5,602	\$35

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Lot Size (SF)	Land Value Per SF
5,679	\$62
5,708	\$26
5,754	\$78
6,000	\$83
6,075	\$100
6,098	\$82
6,363	\$67
6,484	\$77
6,534	\$77
6,571	\$70
6,677	\$97
6,830	\$66
6,885	\$65
6,888	\$75
7,821	\$58
8,862	\$68
10,593	\$47
13,600	\$39

As mentioned earlier, lease areas impacted by the Napa River Category 2 Benchmark are of various lot areas, waterfrontages, locations, shapes, topography, zonings, etc. Due to the uniqueness of each lease area and the lack of significant land value trends relating to the above elements of comparison, no particular sale is deemed a better indicator in concluding a land value benchmark. Therefore, an analysis of the overall dataset is warranted and deemed appropriate in concluding land value for the Napa River Category 2 Benchmark. As previously stated, the value of the unimproved land

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lies between \$26 and \$202 per square foot. The mean unit value is \$82 per square foot, while the median is \$78 per square foot. Based on all the data gathered and analyzed, a unit value of \$80 per square foot is concluded as reasonable for the typical upland residential property.

Market Value of Upland Property \$80 per square foot

Benchmark Rental Rate

Applying the 9% annual rate of return to the previously concluded market value of the upland property results in an annual rental rate of \$7.20 per square foot⁶.

Benchmark Rental Rate

\$7.20 per square foot

The concluded value is based on the leased land having the same utility as the adjoining upland. If the leased land does not have the same utility, then a discounted benchmark rental rate may be warranted.

⁶ Calculated as $\$80 \times 0.09 = \7.20 .

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Table 2. Comparable Sales Table

No.	APN	Address	Sale Date	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
1	048-030-003-000	1508 Milton Rd	11/9/2023	10,593	\$1,250,000	39.57%	\$494,601	\$47
2	048-042-024-000	1788 Milton Rd	10/3/2023	5,221	\$1,250,000	84.21%	\$1,052,632	\$202
3	048-043-011-000	1840 Milton Rd	9/14/2023	5,602	\$1,250,000	15.81%	\$197,665	\$35
4	048-041-013-000	1648 Milton Rd	3/10/2023	6,571	\$900,000	50.85%	\$457,627	\$70
5	047-360-009-000	1436 Milton Rd	12/16/2022	4,821	\$870,000	51.72%	\$450,000	\$93
6	048-042-006-000	1720 Milton Rd	11/8/2022	6,888	\$860,000	60.47%	\$520,000	\$75
7	048-042-008-000	1730 Milton Rd	3/9/2022	6,677	\$1,595,000	40.74%	\$649,810	\$97
8	047-350-019-000	1366 Milton Rd	2/14/2022	4,331	\$585,000	76.92%	\$450,000	\$104
9	048-050-011-000	1928 Milton Rd	12/23/2021	7,821	\$950,000	47.37%	\$450,000	\$58
10	048-042-003-000	1708 Milton Rd	12/17/2021	6,484	\$1,500,000	33.33%	\$500,000	\$77
11	048-030-004-000	1512 Milton Rd	12/1/2021	13,600	\$710,000	73.94%	\$525,000	\$39
12	048-050-003-000	1908 Milton Rd	11/15/2021	6,075	\$1,350,000	45.00%	\$607,476	\$100
13	048-030-012-000	1546 Milton Rd	7/13/2021	5,708	\$260,000	57.03%	\$148,267	\$26
14	048-042-015-000	1756 Milton Rd	6/22/2021	5,221	\$625,000	76.00%	\$475,000	\$91
15	047-360-016-000	1420 Milton Rd	6/22/2021	3,824	\$1,330,000	41.35%	\$550,000	\$144
16	047-350-009-000	1342 Milton Rd	5/26/2021	8,862	\$950,000	63.16%	\$600,000	\$68
17	048-050-005-000	1916 Milton Rd	4/30/2021	5,537	\$1,225,000	44.90%	\$550,000	\$99
18	048-041-017-000	1664 Milton Rd	4/1/2021	6,363	\$589,000	72.16%	\$425,000	\$67
19	048-030-008-000	1528 Milton Rd	3/15/2021	6,885	\$615,000	73.17%	\$450,000	\$65
20	047-360-002-000	1408 Milton Rd	12/22/2020	3,484	\$925,000	48.65%	\$450,000	\$129
21	048-030-023-000	1588 Milton Rd	12/21/2020	6,000	\$1,150,000	43.48%	\$500,000	\$83
22	048-030-024-000	1592 Milton Rd	12/18/2020	6,098	\$850,000	58.82%	\$500,000	\$82
23	048-041-016-000	1660 Milton Rd	10/19/2020	6,830	\$545,000	82.57%	\$450,000	\$66
24	048-042-025-000	1790 Milton Rd	9/25/2020	5,227	\$549,000	81.97%	\$450,000	\$86

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No.	APN	Address	Sale Date	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
25	048-043-016-000	1864 Milton Rd	9/1/2020	6,534	\$1,275,000	39.22%	\$500,000	\$77
26	048-050-004-000	1912 Milton Rd	8/28/2020	5,679	\$550,000	63.64%	\$350,000	\$62
27	048-030-021-000	1580 Milton Rd	5/26/2020	5,754	\$650,000	69.23%	\$450,000	\$78
28	048-043-015-000	1862 Milton Rd	5/4/2020	5,227	\$745,000	60.40%	\$450,000	\$86

Table 3. Indications of Comparable Sales Table

Indications	Lot Area (SF)	Sale Price	% Assessed Land Value	Land Value	Land Value Per SF
Low	3,484	\$260,000	15.81%	\$148,267	\$26
High	13,600	\$1,595,000	84.21%	\$1,052,632	\$202
Mean	6,354	\$925,107	56.99%	\$487,610	\$82
Median	6,038	\$885,000	57.92%	\$466,314	\$78