

Submerged Lands Survey

Update 2000

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Compiled by

Rhode Island
Coastal Resources Management Council

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Submerged Lands Survey 2000

Alabama

SUBMERGED LANDS SURVEY ALABAMA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

1. Tidal
2. Non-tidal rivers and streams

2. Acres of freshwater submerged lands managed: No response.

Miles of freshwater shorelines managed: No response.

3. Acres of marine/tidally influenced submerged lands managed: 600,000+

Miles of marine shorelines managed: No response

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

1. Tidal = mean high water
2. Non-tidal = mean low water

5. Does the state own islands within navigable waterways? Some, generally those not included in original government survey.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Offshore three miles, yes; Other B only on a case-by-case basis.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. **Total annual revenue from submerged lands:** \$112,000,000 per Fiscal year.
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:** Oil/Gas: \$112,000,000
3. **How are fees set for uses of submerged lands?** Relative to other states.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Offshore B Alabama Trust Fund, interest to the General Fund. Above tidal influence B Lands Management.
5. **How is the submerged lands management program funded?** Several sources B activity fees ranging from 1% to 100%.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Handled by different agencies.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Different agencies.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** By the same agency B no direct connection in management activities.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No, not exclusively.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Tidal areas B anywhere a toothpick will float at mean high tide. Non-tidal rivers and streams B anywhere a stream is navigable as evidenced by various sources, historical or current use, and stream characteristics.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** No.

ISSUES OF CONCERN

1. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?

1. Encroachment by upland owners.
2. Diverse use conflict.
3. Increase pressures on resource.

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Submerged Lands Survey 2000

Alaska

SUBMERGED LANDS SURVEY ALASKA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

1. Submerged B beneath tidally influenced waters from mean low water out three nautical miles.
2. Tidelands B beneath tidally influenced waters between mean low water and mean high water.
3. Shore lands B beneath inland navigable waters.

2. Acres of freshwater submerged lands managed: 7,000,000 acres.

Miles of freshwater shorelines managed: 500,000+ acres.

3. Acres of marine/tidally influenced submerged lands managed: 74,860 acres

Miles of marine shorelines managed: 33,904 acres.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? High water mark.

5. Does the state own islands within navigable waterways? Yes, the state owns gravel islands within navigable waters.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No B state owns to unimproved mean high water mark.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters?
Yes

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes B the upland owner has a preference over third-party applicants.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. **Total annual revenue from submerged lands:** \$1,690,000 per Fiscal year.
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Aquaculture: \$450,000
Sand/Gravel: \$200,000
Other minerals: \$40,000
Other: \$100,000 Tide, shore, and submerged land listed
3. **How are fees set for uses of submerged lands?** Fee schedule for small activities (private docks, camp sites, etc.) Appraisal (fair market value) for all other activities.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** About 50% goes back into the programs that pay for the aquatic farming and shorefishery leasing programs. The remainder goes to a school fund.
5. **How is the submerged lands management program funded?** From revenue generated from submerged lands.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Programs are run concurrently.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** None- separate agencies.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No trust lands affected.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Yes, under cooperative agreements.
5. **Do you have a Geographic Information System (GIS) that includes information about the state=s submerged lands?** Yes.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Very few court decisions, as we do not convey these lands into private ownership and are required by law to reserve public access to and along all water bodies.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** None expected.

ISSUES OF CONCERN

3. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?

- a. Continued public access
- b. Fair return for use of public resources, especially from commercial users.

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Submerged Lands Survey 2000

Arkansas

SUBMERGED LANDS SURVEY ARKANSAS

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Navigable Waters B III B defined at this time, combination of State Statutes, Case Law, Federal Laws, Rules & Regulations.

2. Acres of freshwater submerged lands managed: Not available.

Miles of freshwater shorelines managed: Not available.

3. Acres of marine/tidally influenced submerged lands managed: None.

Miles of marine shorelines managed: None.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Ordinarily, the high-water mark.

5. Does the state own islands within navigable waterways? Yes.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? Difference of opinion.

7. Does the mineral ownership move along with the movement of the navigable water body? No.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Not at this time.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. Total annual revenue from submerged lands: \$765,682 for 1999.

Please break down the total annual revenue either by the following categories or by the categories you track in your state:

Oil/Gas	\$671,083.00
Sand/Gravel	94,599.00

2. How are fees set for uses of submerged lands? Oil, gas, sand and gravel removal sealed competitive bids with minimum set by Commission.

3. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** All monies are deposited into the General Fund of the State Treasury.
4. **How is the submerged lands management program funded?** General Revenue Fund.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Advisory role.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Cases are available; contact Steve Hollowell.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Not at this time.

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Dealing with pre-existing uses.
 - b. Obtaining accurate inventory.
 - c. Monitoring present and future uses.

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Submerged Lands Survey 2000

California

SUBMERGED LANDS SURVEY CALIFORNIA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

In California, submerged lands as defined above are generally referred to as sovereign lands and include the beds of naturally navigable rivers, lakes, and streams as well as the tide and submerged lands which extend from the shoreline out to three miles offshore.

Sovereign Lands:

Tidelands B Generally defined as lands covered and uncovered by the ebb and flow of the tide and located between the elevation of mean high tide and mean low tide.

Submerged Lands B Generally defined as lands lying below the elevation of mean low tide.

Navigable Waterways B Waterways which, at the time of statehood in 1850, were used or susceptible of use for commercial navigation.

2. Acres of freshwater submerged lands managed: Approx. 65,000 acres.

Miles of freshwater shorelines managed: Approx. 3,100 shoreline miles

*Excerpted from AA Summary of Shoreline Mileages for state-owned Tide and Submerged Lands prepared by the staff of the California State Lands Commission (CSLC) in May 1972, updated in September 1991. Please note B miles and acreage for freshwater and marine not available.

3. Acres of marine/tidally influenced submerged lands managed: Approx. 905,000 acres.

Miles of marine shorelines managed: Approx. 3,000 shoreline miles. Miles of ocean frontage managed: Approx. 1,400 miles. ** Includes mainland and offshore islands.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? In tidal waterways, the state owns the bed of the waterway up to the Ordinary High Water Mark (OHWM) (Civil Code '830) unless the lands have been filled or subject to artificial accretion.

In non-tidal waterways, the state generally owns to the Ordinary Low Water Mark (OLWM). Lands lying between the OLWM and the OHWM remain subject to a public trust easement. This easement limits the uses of these lands to waterborne commerce, navigation, fisheries, open space, recreation, or other Public Trust Purposes.

Tidal and non-tidal waterways which are not sovereign lands are subject to a recreational easement for recreational navigation. Members of the public have the right to utilize for boating, fishing and incidental uses any water-covered lands that are susceptible of being navigated by even the smallest recreational craft. Under California law, this right to utilize such waters exists even if the bed is privately owned, but access to the waters must exist without trespassing on private lands.

5. **Does the state own islands within navigable waterways?** The state owns those islands, which have formed in the state owned beds of navigable waterways after September 9, 1850. It also holds title to a public trust easement surrounding pre-statehood islands between the OHWM and the OLWM and fee title to islands that only exist when the surface of the waterway is lower than the OHWM.
6. **Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** The answer is a qualified yes. The California Supreme Court in a decision involving Lake Tahoe ruled that the Public Trust Easement attached to the area inundated by the dam controlling the level of the lake. The landward location of the easement was determined to be the OHWM as measured by determining the area covered during a prescriptive five consecutive year period. By determining the lowest HWM reached, during each five-year period of record, and then taking the highest elevation of those low HWMs the court reasoned that area had been prescriptively dedicated as lands subject to the public trust.
- There are cases in California involving reservoirs, which discuss the public trust. The result is that one court describes the public trust applying to the artificially created lake (Shasta) and other that says it doesn't apply (Wilenor). The state was not a party to either of these cases.
- Where from natural causes, land forms by imperceptible degrees upon the bank of a waterway such land accrues to the upland property owner, subject to any existing right of way over the bank (Civil Code '1014). It is the position of the state that where such accumulations can be shown to be caused by man made activities (dams, groins, filling, etc.) the title to the land remains in the state.
7. **Does the mineral ownership move along with the movement of the navigable water body?** Presumably.
8. **Does the state inventory or survey changes in the boundaries of navigable waters?** In 1975, the California Legislature enacted a series of code sections intended to create an inventory of ungranted tidelands, their boundaries and procedures to fix those boundaries. A considerable amount of work was done; however, funding dried up and the project was never completed. The staff of the Commission does collect and inventory evidence of boundary locations. The collection includes thousands of maps, surveys, photographs, reports, etc. The CSLC also maintains a staff of licensed land surveyors with expertise in location of water boundaries. Periodically, when funding permits and necessity dictates, the staff conducts surveys. Typically, this is done either for ongoing litigation or in hopes of resolving disputed boundaries short of litigation.
9. **Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** The right to wharf out (sometimes considered a riparian right) is not a right in California law. It is a privilege, which may be authorized by the State. The California State Lands Commission (CLSC) may lease to Any person, firm, or corporation desiring to lease any of the lands owned by the state, or in which the state may have an interest, and which are under the jurisdiction of the commission, for any purpose not prohibited or otherwise provided by law, Y(Public Resources Code '6501, et seq.) Present CSL policy requires either proof of upland ownership or evidence of the right to use the upland property. Upon receipt of an application to lease lands, the CSLC shall appraise the lands and fix the annual rent or other consideration therefore.

In California, no rent is charged by the CSLC for any private recreational pier constructed on submerged lands for the use of a littoral landowner. Recreational pier includes any fixed facility for the docking or mooring of boats that is constructed for the use of the littoral landowner. Littoral landowner means (a) any natural person or persons who own littoral land improved with, and used solely for, a single-family dwelling or (b) any association of, or any nonprofit corporation consisting of, natural persons who own parcels of land, each or which is zoned or used solely for a single-family dwelling, and who are entitled to the use of a private recreational pier on littoral land that is owned by the association or nonprofit corporation and is not more than one mile from any such parcel owned by a member thereof. (Public Resources Code '6503.5)

In addition, lands located between ordinary high water and ordinary low water on non-tidal waterways are owned by the upland owner (Civil Code ' 830) but remain subject to the public trust easement. Likewise, certain tidelands were lawfully sold by the state in the 1800's and are privately owned \ but subject to the public trust easement. The owner of these lands, subject to the trust, may make lawful use of them unless the CSLC finds such use to be inconsistent with the trust needs of the public.

10. Can you sell submerged lands now? Could you in the past? California Constitution Article X, ' 3 prohibits the sale of tidelands (and submerged lands) within two miles of any incorporated city, county or town. This provision was adopted in 1879 and has been interpreted by the California Supreme Court to include lands, which have been artificially filled, with certain limited exceptions. Certain tidelands (prior to 1910) were statutorily authorized for sale as were certain water lots in San Francisco in the 1850s and certain Board of Tideland Commissioners (BTLC) lots in the San Francisco Bay area in the 1870s. While these lots as laid out included both tide and submerged lands, submerged lands, as a specified class of lands has never been authorized for sale. Most of the tidelands and BTLC lots remain subject to a Public Trust Easement, even though sold into private ownership. Public Resources Code (PRC) '7991 prohibits the sale of tidelands.

11. Can you exchange submerged lands now? Could you in the past? Since 1949 PRC '7307 has authorized the exchange of certain trust lands, and since 1982 PRC "860-8633 have provided for exchanges involving a land bank mechanism. The trust lands exchanged must be 1) a relatively small area, 2) filled and reclaimed and no longer in fact tide or submerged lands, 3) no longer useful or reasonably susceptible of use or necessary for public trust purposes, and 4) of equal or less value than the interests in lands acquired.

The Kapiloff Land Bank authorizes clearing land titles through transfer of money into the land bank fund for future purchase of lands, which have appropriate public trust values.

REVENUE

1. **Total annual revenue from submerged lands:** \$765,682 for 1999.

Please break down the total annual revenue either by the following categories or by the categories you track in your state:

Submerged Lands Royalties

Oil/Gas	\$25,528,264.60
Long Beach Operations	44,854,276.91
Minerals	958,817.05
Geothermal	31,384.04

Submerged Land Surface Leasing

Commercial	\$ 2,160,532.83
Industrial	2,117,938.83
Right of Way	1,185,438.30
Oil, Gas, Geothermal & Minerals	349,313.73
Recreational	184,979.34
Other	43,643.23

2. **How are fees set for uses of submerged lands?** Several methods are used by the Land Management Division to determine fair compensation to the state for use of land under the Commission's jurisdiction. For most surface leases (including overhead and buried lines), two types of rental are evaluated and the one generating the greatest revenue is chosen. The two rental methods are a percentage of gross income and a set return based upon a percentage of appraised land value. Under the percentage of gross income method, a market-derived percentage is applied to the actual gross income derived from the use of the State's property. The percentage may vary depending on source of income (sales of food, alcohol, gas, etc). In the case of a rental determined as a return of land value, an appraisal is made of the State's property to determine the fair market value of the land and a return established by regulation is applied to arrive at the lease rental. Subsurface oil and gas leases and hard rock mineral leases require royalty payment. The royalty is normally established through a bid process with the State accepting the highest qualified bidder. Sand and gravel extraction leases also involve a royalty bid process with the State accepting the highest qualified bidder on a volumetric base.

The Commission also issues some rent-free leases. These are issued primarily to other public agencies for uses that are determined to be for the general statewide public benefit. Also a number of permits are issued for no fee in accordance with statutory mandates.

3. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Revenues derived from public trust lands are required by law to be accounted for in one of two ways.

The first procedure involves the revenues derived from public trust lands under the management of the California State Lands Commission (CSLC). Those revenues

are deposited into the State Treasury and are applied to various obligations as provided for by the Legislature in PRC ' 6217. This distribution is altered annually by the Legislature in the Budget Act. The Governor has proposed eliminating the distribution in ' 6217 and directing all revenues to the General Fund as part of the 1994-95 Budget Plan.

The second procedure related to public trust lands held by a local governmental entity (city, county, special district, etc.) pursuant to a granting statute(s) from the legislature. There are over 300 statutes involving over 75 local grantees/trustees. Each of these grantees are required by law to set up special trust accounting procedures and use the revenues for only those purposes authorized in the statutes effecting the specific lands involved (PRC ' 6306). Typically, the authorized uses include management of the trust lands for water-dependent or water-related public purposes.

- 4. How is the submerged lands management program funded?** The management of the public trust lands under the jurisdiction of the CSLC is funded from the State's General Fund. While PRC ' 6217 (a)(2) provides for tideland royalties to be deposited into the General Fund in an amount equal to the CSLC's budget, this in no way guarantees funding or is related to the budget process. The CSLC must compete with all other agencies for General Fund appropriations. No relationship exists between CSLC funding and revenues.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** California's CZMA agency is the California Coastal Commission. The Coastal Commission is the designated regulatory police power authority of the state for development in the Coastal Zone. That authority is transferable to local governments upon approval of Local Coastal Programs by the Coastal Commission. The Coastal Commission retains regulatory permit authority over tide and submerged lands. The CSLC and the local trust grantees are the property managers of the state's public trust lands. All state and local agencies are subject to the Coastal Act.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** The State Water Resources Control Board (SWRCB) and its Regional Water Quality Control Boards (RWQCBs) are the primary water rights and water quality regulatory agencies of the state. The Department of Water Resources (DWR) is responsible for water development projects including the State Water Project. DWR is a proprietary land agency, which manages water storage and transport facilities. The Legislature has authorized certain uses of public trust lands for the State Water Project, and the CSLC and DWR presently operate under a Memorandum of Understanding for implementation of the project on public trust lands. Individuals or entities leasing public trust lands or any other property remain subject to the regulatory control of the SWRCB and RWQCBs.
- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** The state's public trust lands and its school lands are both managed by the CSLC. Individual staff members may in fact work with one or both types of land depending on their assignment. Records of time allotted to projects in the two areas are

kept separate as are the revenues generated from the lands. Revenues from school lands are deposited in the State Teachers' Retirement Fund.

4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Cities, counties, port districts and other legislatively authorized entities can and do manage public trust lands for the state. These trustees for the state manage the lands pursuant to statutory grants and subject to the oversight authority of the CSLC.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** The CSLC has recently begun implementing a program to develop a geographic information system capable of maintaining an inventory of the ecological, social and economic resources along the California coast and integrating that information for resource management and other purposes.

Through a local area network and communications link to the Stephen P. Teale Data Center, data resources are shared amongst federal, state, and local government agencies.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

California law involving the Public Trust Doctrine begins with the pronouncements of the United States Supreme Court. Public Trust lands are sovereign lands inuring to the state under the Equal Footing Doctrine. These lands involve the beds of all tide and submerged lands and navigable waters up to the ordinary high water mark. Some of these lands were conveyed into private ownership in the 1800s. Tidelands which were legally sold as well as the shorezone (lands between ordinary high and low water marks) on inland non-tidal navigable waters may be privately owned (Civil Code ' 830) but remain subject to a Public Trust Easement. The Public Trust protects and preserves sovereign lands for water-oriented and water-dependent uses including but not limited to navigation and for commerce by means of navigation; fisheries; water-oriented recreation; and conservation, education, and scientific study of natural resources. The responsibility and authority of the state to protect public trust values is not lost by issuance of a license, permit or other consent to use trust resources.

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** The CSLC has no plans to expand the Public Trust Doctrine. However, when the Legislature or courts address the issue of where, when, or how the doctrine applies, we do offer information and advice we believe to be helpful in their decision making process.

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Preserving the environmental integrity of the lands and reserves for future generations.
 - b. Locating and perfecting title to trust lands to prevent their conversion to non-

- c. trust use by inappropriate development.
Planning and implementing appropriate land uses for a finite resource with increasingly conflicting pressures for use and ensuring that the state receives fair compensation for exclusive use and extraction of its resources.
- d. Ensuring that billions of dollars in trust assets are not misappropriated for non-trust uses.
- e. Managing a force of interdisciplinary professionals so as to ensure that the CSLC has the most dedicated, motivated and best possible team of employees serving as trustees of the state's public trust resources.

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Submerged Lands Survey 2000

Colorado

SUBMERGED LANDS SURVEY COLORADO

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Colorado has NO submerged lands.

2. Acres of freshwater submerged lands managed: 0

Miles of freshwater shorelines managed: 0

3. Acres of marine/tidally influenced submerged lands managed: 0

Miles of marine shorelines managed: 0

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

Colorado has NO navigable waters, per Colorado AG

5. Does the state own islands within navigable waterways? N/A

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? N/A

7. Does the mineral ownership move along with the movement of the navigable water body? N/A

8. Does the state inventory or survey changes in the boundaries of navigable water? N/A

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? N/A

10. Can you sell submerged lands now? Could you in the past? N/A

11. Can you exchange submerged lands now? Could you in the past? N/A

REVENUE

1. Total annual revenue from submerged lands: \$0 for years 1994-2000

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state: 0

3. How are fees set for uses of submerged lands? N/A

4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources? N/A

5. How is the submerged lands management program funded? N/A

PROGRAM RELATIONSHIPS

- 1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** N/A
- 2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** N/A
- 3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** N/A
- 4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** N/A
- 5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** N/A

PUBLIC TRUST DOCTRINE

- 1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Colorado has no PUBLIC Trust Doctrine. Colorado has trust lands administered for beneficiaries, the largest of which is the common schools. None are held for public trust.
- 2. **Do you have any plans to expand the Public Trust Doctrine in your state?**
No

ISSUES OF CONCERN

- 3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?** None

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Submerged Lands Survey 2000

Delaware

SUBMERGED LANDS SURVEY DELAWARE

OWNERSHIP/LAND BASE

- 1. What categories of submerged lands do you have and how are they defined?**
Submerged lands are not categorized.
- 2. Acres of freshwater submerged lands managed:** Not available.
Miles of freshwater shorelines managed: Not available
- 3. Acres of marine/tidally influenced submerged lands managed:** Not available
Miles of marine shorelines managed: Not available
- 4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?** Low-water mark.
- 5. Does the state own islands within navigable waterways?** No.
- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** No.
- 7. Does the mineral ownership move along with the movement of the navigable water body?** Yes.
- 8. Does the state inventory or survey changes in the boundaries of navigable waters?**
No.
- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Yes.
- 10. Can you sell submerged lands now? Could you in the past?** Unlikely that the state would sell submerged lands.
- 11. Can you exchange submerged lands now? Could you in the past?** No to both.

REVENUE

- 1. Total annual revenue from submerged lands:** \$150,000 per calendar year.
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:** see fee schedule.
- 3. How are fees set for uses of submerged lands?** Based on square feet used.
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Dedicated to the management of subaqueous lands.
- 5. How is the submerged lands management program funded?** General funds and fees.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Separately administered programs.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Water Quality Certification Administration by Subaqueous Lands Program.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes, we have a GIS; does not include subaqueous lands yet.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Very few court cases in Delaware. Courts have established state as mean low water. Recent ruling by Superior Court prohibits state from charging a fee for docks on public subaqueous lands.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** General Assembly recently removed definition of '>navigable' from Subaqueous Lands Act since it was the same as the federal definition. Regulation now defines jurisdiction.

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Ability to charge a fee for docks/piers.
 - b. Definition of what is '>navigable'.
 - c. Potential for oil and gas extraction on subaqueous lands.
 - d. Loss of habitat from channelization of subaqueous lands.
 - e. Reduction of state authority over subaqueous lands.

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Submerged Lands Survey 2000

Florida

SUBMERGED LANDS SURVEY FLORIDA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Sovereignty lands; aquatic preserves; outstanding Florida waters; marine sanctuary; and estuarine research reserve.

2. Acres of freshwater submerged lands managed: 1,800,000 acres (inland lakes and rivers).

Miles of freshwater shorelines managed: 12,000 miles of rivers.

3. Acres of marine/tidally influenced submerged lands managed: 6,000,000 acres (Territorial Waters).

Miles of marine shorelines managed: 2,276 miles (includes Bays and Inlets).

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

Mean/Ordinary High Water Line.

5. Does the state own islands within navigable waterways? Yes B unless explicitly conveyed.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No; state continues to own below historic ordinary high water line only, unless additional lands are purchased from upland owner.

7. Does the mineral ownership move along with the movement of the navigable water body? Do not know.

8. Does the state inventory or survey changes in the boundaries of navigable waters? No, not generally.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes.

10. Can you sell submerged lands now? Could you in the past? Yes to both.

11. Can you exchange submerged lands now? Could you in the past? Yes to both.

REVENUE

1. Total annual revenue from submerged lands:

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:

- Total land leasing:
- Water-dependent leases:
- Nonwater-dependent leases:
 - Aquaculture:
 - Oil/Gas:
 - Sand/Gravel:
 - Other minerals:
 - Easements/Rights-of-Way:

- 3. How are fees set for uses of submerged lands?** Lease: per square foot of area from which public is excluded. Easement: appraised value including enhancement to upland.
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** IITF; supports a variety of state land management programs.
- 5. How is the submerged lands management program funded?** Lease and easement fees; application fees; and fines.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Submerged land program is but one component of CZM program.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Prior to 1993, they were different departments. In 1993, the two agencies were merged and programs combined.
- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** In Florida, no separate, focused program for school trust lands exists.
- 4. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Yes.
- 5. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** In the development stages.

PUBLIC TRUST DOCTRINE

1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.

Doctrine was well established in the first half of the 20th century; then seemed to fall into disuse; appears to be making a comeback in such cases as Coastal Petroleum Company v. American Cyanamid, 492 So. 2D 339 (Fla. 1986); Kreiter v. Chiles, 595 So. 2d III (Fla. 3 DCA 1992); Roger MacNamara v. Kissimmee River Valley Sportsmans' Association, 648 So. 2d 155 (Fla. 2 DCA 1994); we are pursuing a quiet title suit on a lake B another ordinary high water line case.

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Yes.
We filed suit to quiet title on a lake B another ordinary high water line case.

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
1. Merging and splitting up of program responsibilities.
 2. Continued development pressure along coast and interior waterways.
 3. Private property rights/anti-government movement.

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Submerged Lands Survey 2000

Georgia

SUBMERGED LANDS SURVEY GEORGIA

OWNERSHIP/LAND BASE

1. **What categories of submerged lands do you have and how are they defined?**
All tidal areas.
2. **Acres of freshwater submerged lands managed:** Not available.
Miles of freshwater shorelines managed: Not available.
3. **Acres of marine/tidally influenced submerged lands managed:** 701,000
Miles of marine shorelines managed: 100
4. **Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?** High-water up to 5-6 feet above mean sea level.
5. **Does the state own islands within navigable waterways?** Some.
6. **Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** No.
7. **Does the mineral ownership move along with the movement of the navigable water body?** No.
8. **Does the state inventory or survey changes in the boundaries of navigable waters?** No.
9. **Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Yes.
10. **Can you sell submerged lands now? Could you in the past?** No to both.
11. **Can you exchange submerged lands now? Could you in the past?** No to both.

REVENUE

1. **Total annual revenue from submerged lands:** Unknown, approximately \$5,000/year.
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:** -0-
Water-dependent leases: Marinas and shell fish harvest only.
3. **How are fees set for uses of submerged lands?** Appraisal.

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Yes.
5. **How is the submerged lands management program funded?** State appropriations.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Same supervisor.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Same agency.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not applicable.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Unknown.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Yes.

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Grandfathered activities/impacts.
 - b. Nonwater-dependent uses.

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Submerged Lands Survey 2000

Idaho

SUBMERGED LANDS SURVEY IDAHO

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Beds of navigable lakes and rivers.

2. Acres of freshwater submerged lands managed: 308,300

Miles of freshwater shorelines managed: 2,048

Idaho claims ownership of beds on 71 lakes and 2,048 miles of rivers. Actual acreage is unknown.

3. Acres of marine/tidally influenced submerged lands managed: None.

Miles of marine shorelines managed: None.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

To the extent of the ordinary high-water mark.

5. Does the state own islands within navigable waterways? If islands were raised after statehood, they belong to the state. Otherwise, no.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No. State still only claims ownership to pre-existing ordinary high-water mark.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes. State title goes with the water movement and includes minerals.

8. Does the state inventory or survey changes in the boundaries of navigable waters? No. State requires survey if private owners attempt to clear ownership. Otherwise, inventory and survey are not done.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes. Only persons with riparian or littoral ownership are allowed to construct dockage.

10. Can you sell submerged lands now? Could you in the past? No to both. Idaho holds that Public Trusts cannot be sold.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. Total annual revenue from submerged lands: \$252,535 in FY 2000

- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Total land leasing: 250 acres

- 3. How are fees set for uses of submerged lands? Current:**

C Single family: no charge under 700 sq. ft.

C Multiple family: \$250/yr minimum or 5% of average moorage rate at commercial marinas.

C Commercial: \$250/yr minimum or 3.75% of gross moorage receipts.

(See attached)

- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** All revenue currently goes to the general fund. None of the revenue is dedicated to management of the submerged lands.

- 5. How is the submerged lands management program funded?** Legislative appropriation from the state general fund.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.

- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** At this time, these programs are independent of one another. No overlap or interaction exists.

- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Yes. The leasing bureau manages both endowment land leases and submerged land leases. Both lease types are managed so as to generate income and are administered by the same people.

Regulation of submerged lands is administered in a separate program.

- 4. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Idaho has one Memorandum of Agreement with the Lewiston Port District to manage submerged beds within their district. Otherwise, only the state manages submerged lands.

- 5. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Our GIS program is just beginning to incorporate submerged lands. We are initiating an encroachment inventory this summer, utilizing current GIS technology and equipment.

PUBLIC TRUST DOCTRINE

- 1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** The primary purpose of public trust resources is for commerce, navigation, fishing and recreation. Private uses should not necessarily set these public uses aside.
- 2. Do you have any plans to expand the Public Trust Doctrine in your state?** Not at this time.

ISSUES OF CONCERN

- 3. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Increased private use of shorelines.
 - b. Protection of public trust natural resources.

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Submerged Lands Survey 2000

Louisiana

SUBMERGED LANDS SURVEY LOUISIANA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Louisiana calls its submerged lands water bottoms. Louisiana claims ownership of all water bottoms beneath historically naturally navigable bodies of water.

2. Acres of freshwater submerged lands managed: 3,500,000 acres total. We do not have a breakdown of freshwater/saltwater.

Miles of freshwater shorelines managed: Not available

3. Acres of marine/tidally influenced submerged lands managed: 3,500,000 acres total. We do not have a breakdown of freshwater/saltwater.

Miles of marine shorelines managed: Not available

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

Beds of navigable rivers and streams ‘ Low water.

Beds of navigable lakes, bays, arms of sea, Gulf of Mexico ‘ High water.

5. Does the state own islands within navigable waterways? Yes, if the island was formed after statehood, from the bed and bottom of the waterway.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No

7. Does the mineral ownership move along with the movement of the navigable water body? Yes

8. Does the state inventory or survey changes in the boundaries of navigable waters? No

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes

10. Can you sell submerged lands now? Could you in the past? No to both

11. Can you exchange submerged lands now? Could you in the past? No to both

REVENUE

1. **Total annual revenue from submerged lands:** \$265,959,000 for 92/93 fiscal year

2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Total land leasing: \$42,000
Oil/Gas: \$261,000,000
Easements/Rights-of-Way: \$2,446,400
(This figure also includes \$700,000 for surface leases for campsites)
Other: \$287,000 in timber sales
\$600,000 in water bottom

3. **How are fees set for uses of submerged lands?** Rules and regulations from statute. Fees from water bottom bases are determined by the market as much as possible. Easements/Rights-of-Way are \$25, \$35 or \$45 per rod, depending on the width of the area required. Permit fees from wharves, piers and other structure is \$.02 per square foot.

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** State Land Office is self-generated funding. Our operating budget is now capped at \$2,000,000. Everything above that goes to the General Fund.

5. **How is the submerged lands management program funded?** Self-generated from all revenues from State Land Office

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Review of permits issued by CZM program

2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** None

3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No

4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Depends how you define manage. These bodies can manage if they have statutory authority to do so.

5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes, partial

PUBLIC TRUST DOCTRINE

- 1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

The Public Trust Doctrine, to the extent it exists in Louisiana, is defined statutorily not by the courts in the state.

- 2. Do you have any plans to expand the Public Trust Doctrine in your state?**

No

ISSUES OF CONCERN

- 3. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**

- Unauthorized encroachment
- Determination of state ownership as marsh deteriorates

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Submerged Lands Survey 2000

Maine

SUBMERGED LANDS SURVEY MAINE

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

All land from the mean low-water mark or a maximum of 1,650 feet seaward to the mean high-water mark, whichever is closer to the mean high-water mark, out to the seaward boundary of coastal waters as defined in section 6001;

All land below the mean low-water mark of tidal rivers upstream to the farthest natural reaches of the tides;

All land below the natural mean low-water mark of ponds which in their natural state are 10 or more acres in size; and

The river bed of international boundary rivers, defined as all land lying between defined banks, created by the action of surface water and characterized by a lack of terrestrial vegetation and devoid of topsoil, and the international boundary line.

2. Acres of freshwater submerged lands managed: 980,045

Miles of freshwater shorelines managed: 24,500

3. Acres of marine/tidally influenced submerged lands managed: 1,314,000

Miles of marine shorelines managed: 4,100 (you may see different values depending upon how it is measured and who does the measuring).

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Low-water.

5. Does the state own islands within navigable waterways? Some, but not necessarily by public trust B certainly not as submerged lands.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No, we define state ownership by the natural low watermark. If land is flowed by dam, we estimate.

7. Does the mineral ownership move along with the movement of the navigable water body? If you mean accretion of sand beach, yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Not on a regular basis. Certain beaches and marsh areas are surveyed for changes by Maine Geological Survey.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes, riparian rights are recognized, but they are subservient to public trust, so far anyway.

10. Can you sell submerged lands now? Could you in the past? No to both, except by an act of legislation (1997 B in a specific situation)

11. Can you exchange submerged lands now? Could you in the past? No to both

REVENUE

- 1. Total annual revenue from submerged lands:** \$110,000 average. This varies somewhat year to year, because some rental fees are based on lessee's income from slip rental. The revenue for fiscal year 1994 ending June 30, 1994 was \$115,900 B up over our previous average.
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:**
Total land leasing: \$115,900
Water-dependent leases: \$89,000
Nonwater-dependent leases: \$24,000 B fewer leases, but higher cost for rental.
Aquaculture: \$ -0- separate program run by a different agency.
Easements/Rights-of-Way: \$1500
Sunken Log Salvage: \$10,000
Other: \$2,000 - dredging
- 3. How are fees set for uses of submerged lands?** By law, Section 2A in Statutes (actual Statute Reference is 12 MRSA Subsection 1862).
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Strictly dedicated to submerged lands. Most revenue simply runs the program. A small surplus goes into a Harbor Management Fund for grants to municipalities for harbor plans, public access facilities, etc.
- 5. How is the submerged lands management program funded?** Entirely by revenues from the program.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Separate programs run by different agencies. Cooperation is through an interdepartmental Marine Policy Committee.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Separate programs run by different agencies. Cooperation is through an interdepartmental Marine Policy Committee. More interaction with this program, because they handle the environmental permit applications, which we use as the basis for determining need for lease or easement.
- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** The Bureau of Public Lands manages the school trust lands (now called Public Reserved Lands) and the Submerged Lands. But they are mostly separate programs with very little overlap other than administrative services.
- 4. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Limited to moorings, defining channel lines and similar items of local control under the State Harbormaster Law.

5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes, but it is somewhat limited at this time.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

No concise summary exists. It is very complex and exists in case and civil law. Basically, we use our own definition for purposes of the Submerged Lands program (page 4 of RULES).

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** No

ISSUES OF CONCERN

3. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**

- a. Need for a constituency B public support for the program.
- b. Resistance to fees.
- c. Inequity for grandfathered structures B pay no fee at this time.
- d. Providing equitable return to the public for private use of public trust resources.
- e. Mitigating against incremental loss of public trust rights and values.

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Submerged Lands Survey 2000

Maryland

SUBMERGED LANDS SURVEY MARYLAND

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

State wetlands B any land under the navigable waters of the state below the mean high tide, affected by the regular rise and fall of the tide.

Private wetlands B any land not considered state wetland bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth.

In Maryland, navigable water is defined as where the tide ebbs and flows. Non-tidal lakes, rivers, and streams may also be navigable under the navigable in-fact test.

2. Acres of freshwater submerged lands managed:

We predicate this reply by defining managed to mean regulated by the state and not managed in a state-proprietary fashion. We regulate non-tidal waterways and the 100-year floodplain. There are no natural lakes in Maryland. Deep Creek Lake, located in western Maryland, is our largest lake encompassing 3,500 acres and 65 miles of shoreline. In the past year, the State of Maryland purchased Deep Creek Lake from Pennsylvania Electric Company. Therefore, currently the State owns the bottom of the lake and a buffer strip located adjacent to the lake's shoreline. Maryland Department of Natural Resources is still currently managing the lake. However, part of the upland buffer strip is being offered for sale to the adjacent riparian property owners. The sale price will be equal to the State's cost. The use of this buffer strip by the riparian property owners will be limited by deed and land use restrictions. Water quality, habitat protection, limited access and riparian-forested buffer issues are just a few items that have been addressed.

Miles of freshwater shorelines managed:

The state does not necessarily own the non-tidal waterways. Westward from Washington, D.C. the length of the Potomac River in Maryland is 264.9 miles (MGS personal communication). Our other two major non-tidal waterways, the Patuxent and Patapsco Rivers, have non-tidal reaches of 53.3 miles and 36.7 miles, respectively (Source B MD Water Supply and Demand Study, September 1965). The following table further documents the linear miles of Maryland's non-tidal streams and rivers.

1 st Order (spring seeps and headwaters)	6,978 miles
2 nd Order	3,597 miles
3 rd Order	1,864 miles
4 th Order	982 miles
5 th Order (major rivers including the 3 mentioned above)	520 miles
Total non-tidal river miles in Maryland (Source B Tetra Tech, Inc.)	13,941 miles

3. Acres of marine/tidally influenced submerged lands managed: 1,613,043

Miles of marine shorelines managed: 4,431

4. Does the state own the beds of navigable waters to the extent of the high-water

mark or low-water mark? Mean high tide everywhere, except to the low water mark on the Virginia and West Virginia side of the Potomac River.

- 5. Does the state own islands within navigable waterways?** Most islands are in private ownership.

Some islands are state-owned in fee, none are owned by the state in the fashion of sovereign proprietorship. The state obtained a dredged material island adjacent to Barren Island by land patent in the 1980's. There is a newly revised land patent procedure, which the state and others must follow to obtain title to vacant lands; the applicable statute is the Real Property Article, " 13-101 et seq., Annotated Code of Maryland.

Also by law, any island created or formed within the confines of Sinepuxent, Isle or Wight, or Chincoteague Bay by the dumping or depositing of excavated material from dredging or any other artificial means employed by the state or the United States, together with any accretion to any of those islands, in the past or future, are natural resources of the state and title to them is retained for the use of the Department of Natural Resources.

- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** Yes, when a dam or impoundment is lawfully permitted or licensed, and no longer subject to tidal action, then the impoundment area becomes private land.

- 7. Does the mineral ownership move along with the movement of the navigable water body?** The question of change of ownership of mineral interests has not arisen in Maryland in the context of submerged lands and specifically regarding a change in the shorelines of navigable waters. The applicable premise is whoever owns the upland owns the associated mineral interests, and whoever owns the submerged lands (the state in submerged tidelands) owns the mineral interests under them.

- 8. Does the state inventory or survey changes in the boundaries of navigable waters?** Maryland has not adopted a program of tidal boundary surveys for regulatory and other purposes as some states have done in association with the National Ocean Survey of NOAA.

DNR conducts hydrographic surveys of natural and leased oyster bars and state boundaries, and generally conducts surveys in tidal waters, including the tidal portion of the Potomac River. Otherwise, the MD Geological Survey (MGS) surveys state boundaries, including along the non-tidal portion of the Potomac River.

MGS maps and studies shoreline erosion and accretion rates using aerial photography. These maps may be obtained and used for other purposes, for example, in legal disputes over riparian rights. In addition, DNR makes regulatory changes to the 1972 tidal wetland boundary maps from time to time, usually at the request of a riparian property owner due to significant changes in a shoreline, natural or man-made.

- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Yes.

- 10. Can you sell submerged lands now?** No, we do not sell open water areas. The

applicable statute is State Finance and Procurement Article '10-402, Annotated Code of Maryland. There have been a few quit-claim conveyances of filled lands, under exceptional circumstances to clear title and when found to be in the public interest.

Could you in the past? Yes, patents to submerged lands were conveyed prior to 1862.

11. Can you exchange submerged lands now? Maryland does not have such a program. State Finance and Procurement Article '10-402 prohibits conveyances.

Could you in the past? A private individual who owns land patented prior to 1862 may convey them.

REVENUE

1. Total annual revenue from submerged lands: ????????

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:

Broken down as follows for FY 2000 which ended on June 30,2000:

1. Leased land fees (annual)		\$422,293.76
Non-water dependent uses	\$3,000.00	
Water dependent uses		
Oyster bottom leases		\$25,000.00
Water column leases (Aquaculture)		\$401.50
Easements/Rights-of-Ways	\$104,955.01	
2. Compensation (one time charge)		\$288,937.25
For non-water dependent structures as allowed by the State's Tidal Wetlands Act.		
3. Tidal Wetlands Licenses fees		\$24,700.00

3. How are fees set for uses of submerged lands? In state wetlands licensing procedures adopted by the Board of Public Works, by regulation, and in unique circumstances, through individual determinations by the Board of Public Works of appropriate consideration due the State.

4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources? Revenue from all fees excluding the wetlands license fees are deposited in Maryland Department of Environment's Wetlands Compensation Fund for the funding of environmental enhancement projects associated with the tidal wetlands resources. General examples of these types of projects are non-structural shoreline erosion control projects, marsh restoration projects, fish blockage removal, construction of fish passage structures, funding of fish and shellfish stocking programs in protected areas, and education programs.

License fees are deposited in the State's General Fund account, with the intended purpose of offsetting the cost to run my Administration.

5. How is the submerged lands management program funded? Appropriated annual budgets of the Board of Public Works (Wetlands Administrations) and the DNR (Water Resources Administration, Tidal Wetlands Division), and some federal funding support Maryland's Coastal Zone Management Program. Also, criminal fines and penalties

collected through enforcement.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Our CZM program comments on a wide array of proposed activities, actions and projects, among which are the regulatory and enforcement actions of the Water Resources Administration. Our CZM, regulatory and aquatic resource management programs are all within the DNR. The state Board of Public Works makes proprietary decisions affecting submerged lands based upon DNR interagency review and recommendations, which have been coordinated and developed out of the public review process.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** The MD Department of the Environment may issue any required water quality certification in association with Army Corps of Engineers and DNR joint application processing. Also, the DNR's Tidewater Administration may issue aquaculture permits, which may include water quality provisions.

Public review and coordination among the agencies occurs before the Board of Public Works acts by granting or denying a wetlands license or lease. These authorizations state the obligation that all approvals necessary to ensure the maintenance of water quality be obtained.

As of July 1, 1995 the Wetlands licensing program and water quality program were merged into the same unit at Maryland Department of Environment. The Tidal Wetlands Division of Wetlands and Waterways Program reviews proposed projects for both water quality certification under the Clean Water Act and wetlands licensing for work on submerged State lands.

The Army Corps of Engineers, Baltimore District and MDE still have a joint application process, which has only been even more solidified. The COE issued to the State on July 2, 1996, the Maryland State Programmatic General Permit (MDSPPG). As of this date, approximately 90% of all applications received by MDE are reviewed under the guidelines of the MDSPPG, and both State and federal authorizations are issued by MDE. The COE is provided a copy of the approvals after issuance by the State.

- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Maryland does not have such a program.
- 4. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Not directly. After the Board of Public Works has authorized use of state wetlands, the licensee must comply with local planning and zoning ordinances.
- 5. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes, the Maryland State Government Geographic Information Coordinating Committee oversees ongoing development of

base maps and the production of thematic data layers. Submerged lands related layers include: wetlands and deep water habitats, Chesapeake Bay Estuarine Sediment Study, historic and present shoreline maps, state boundary markers, natural and leased oyster bar charts, submerged archeological sites, and submerged aquatic vegetation beds.

PUBLIC TRUST DOCTRINE

- 1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Maryland law and court rulings affirm that submerged lands are held under public trust in the general fashion. The public trust, referring in the traditional sense to navigation, fishery, and hunting interests of the public, is referenced in law and by our courts without use of the term PUBLIC Trust Doctrine.
- 2. Do you have any plans to expand the Public Trust Doctrine in your state?** Not beyond the interests typically held to be subjects of the public trust.

ISSUES OF CONCERN

- 3. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Maryland's and our adjoining jurisdictions continuing efforts as signatories to the EPA-Chesapeake Bay Agreement.
 - b. Resolution of conflicting uses on waterways through the development of comprehensive management plans.
 - c. Conflicts arising between off-bottom aquaculture and other uses of submerged lands and navigable waters.
 - d. Nonwater-dependent structures and uses of piers.
 - e. Broader assessment of fees for consideration for beneficial private uses of submerged lands.
 - f. Continuation of the trend away from hardened protection of shorelines to the protection of shallow water habitats through environmentally preferable nonstructural erosion control measures, i.e., marsh plantings and beach nourishment.

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Submerged Lands Survey 2000

Mississippi

SUBMERGED LANDS SURVEY

MISSISSIPPI

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Fee simple title to all lands naturally subject to tidal influence inland to today's mean high-water mark is held by the state of Mississippi in trust. Lands brought within the ebb and flow of the tide by avulsion or by artificial or non-natural means are owned by their private record titleholder.

Lands below navigable freshwaters are susceptible of wholly private ownership.

2. Acres of freshwater submerged lands managed: -0-

Miles of freshwater shorelines managed: -0-

N.B. included within the tidally influenced miles of marine shoreline noted below are many miles of freshwater rivers which empty into the Mississippi Sounds or the Gulf of Mexico.

3. Acres of marine/tidally influenced submerged lands managed: 504,304

Miles of marine shorelines managed: 830 miles

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Mean high-water mark.

5. Does the state own islands within navigable waterways? No, unless it has been established that the island was completely overflowed by the tides at the time Mississippi was admitted to the Union.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters? When necessary.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes, although case law defines a right as a revocable privilege or license subject to the superior right of the state to impose an additional public use upon such property already set aside for a public purpose *Crary v. State Highway Commission*, 60 So2d 468, 1953.

10. Can you sell submerged lands now? Could you in the past? Fee-simple title to public trust tidelands may not be conveyed by the state unless it is for a higher public purpose and then only by legislative enactment.

11. Can you exchange submerged lands now? Could you in the past? The same prohibition against conveyance set forth in Item 10 would apply. However, some land exchanges have been made in executing the legislative mandate of Miss. Code Ann. '29-15-7 which directs the Secretary of State to resolve boundary disputes with occupants of filled tidelands.

REVENUE

- 1. Total annual revenue from submerged lands:** Unknown.
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:** Total submerged land/tideland leasing \$5,740,924.29 (FY 2000).
- 3. How are fees set for uses of submerged lands?** Rules promulgated by the Secretary of State provide that rent shall be negotiable, but in no event less than \$.07 per square foot for standard leases, and \$25 per acre for aquaculture leases. Rent review and adjustment is statutorily mandated every five years. As a practical matter, we have obtained site-specific appraisals for each casino lease, and at least a review by an appraiser for all other leases.
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Approximately 90% of lease revenues is disbursed to the Mississippi Department of Marine Resources to be used for Anew and extra programs of tidelands management, such as conservation, reclamation, preservation, acquisition, education or the enhancement of public access to the public trust tidelands or public improvements projects as they relate to such lands. Mississippi Code Ann. '29-15-9, copy attached.
- 5. How is the submerged lands management program funded?** See Mississippi Code '29-15-9.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Coastal zone management is a function of the Department of Marine Resources (DMR), managed by the Commission on Marine Resources, a seven-member local commission, appointed by the governor. Proprietary management is a function of the Secretary of State, a statewide elected official, whose duties include those of land commissioner. DMR coastal management staff works closely with the Secretary of State's coast office staff. DMR permitting process triggers the lease process of the Secretary of State.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** DMR is the one stop lead permit agency; Mississippi's Office of Pollution Control is a coordinate agency in the DMR's permitting process. The Secretary of State works with the Office of Pollution Control through the DMR.
- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No. Although the supervisory trustee of school lands is the Secretary of State, management and leasing of school lands is the responsibility of the local school districts. Many of the same trust management principles apply, however.
- 4. Can cities, counties, port districts or other municipalities manage state submerged**

lands on behalf of the state? Yes, where there is legislative authority for this.

- 5. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No.

PUBLIC TRUST DOCTRINE

- 1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

Fee-simple title to all lands naturally subject to tidal influence inland to today's mean high-water mark is held by the state of Mississippi in trust. Lands brought within the ebb and flow of the tide by avulsion or by artificial or non-natural means are owned by their private record titleholders.

The prohibition against alienation is also mentioned elsewhere in this response. In addition to public trust restriction against alienation, Mississippi's constitution prohibits donation of public property, which ensures that fair market rental is obtained. The purposes of the trust include navigation and transportation, commerce, fishing, bathing, swimming and other recreational activities, development of mineral resources, environmental protection and preservation, the enhancement of aquatic, avarian and marine life, sea agriculture and no doubt others.

- 2. Do you have any plans to expand the Public Trust Doctrine in your state?** No. The decision was made not to argue to the Mississippi Supreme Court that the extension of the doctrine was to include the beds of freshwater streams.

ISSUES OF CONCERN

- 1. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
- a. Balancing the adverse impacts of the development boom triggered by dockside casinos with the statutory mandate to preserve the natural state of public trust tidelands and their ecosystems.
 - b. Sufficient trained personnel to implement the program.
 - c. Legal challenges to the Secretary of State's discretionary authority to lease public trust tidelands.

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Submerged Lands Survey 2000

Montana

**SUBMERGED LANDS SURVEY
MONTANA**

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Two categories of submerged lands exist in Montana:

- a. Active beds of navigable waters (e.g., rivers, streams, and lakes).
- b. Islands and abandoned channels that have developed since statehood.

2. Acres of freshwater submerged lands managed: Approximately 50,000 acres

Miles of freshwater shorelines managed: Approximately 6,000 miles

3. Acres of marine/tidally influenced submerged lands managed: -0-

Miles of marine shorelines managed: -0-

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Low-water mark.

5. Does the state own islands within navigable waterways? The state owns islands along navigable waterways if the island developed out of the bed of the river and stabilized since statehood (1889).

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?

- a. The State of Montana contends it owns the beds of reservoirs that were constructed along navigable rivers. At this time, this theory has not been tested in the judicial system.
- b. If an avulsion was created by a man-made dike or other human-caused impact, the state claims the bed of the abandoned channel if this channel was originally surveyed at statehood. The state also claims these abandoned channels if the avulsion was from natural processes.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters?

Generalized atlases have been compiled for tracking submerged land ownership along the major navigable rivers in Montana. These atlases include islands and abandoned channels as well as the active channel location. However, most channel changes have not been surveyed or adjudicated to clarify title.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes. NOTE: Montana statute

(85-16-101, MCA) grants a license and permit to build docks and wharves over, across, and upon lands underwater belonging to the state. 85-16-102, MCA allows for public use of all docks and wharves built on any of the navigable waters of the state with the owner of the dock or wharf entitled to charge a reasonable fee for use of the dock or wharf. Therefore, the state does not manage, nor receive any compensation from, docks and wharves throughout the state.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? There is a new law allowing some transfers or grants of easements to public entities for public

purposes without charge.

REVENUE

1. **Total annual revenue from submerged lands:** \$116,885 FY 1999
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Oil/Gas	\$108,000
Other minerals	\$ 1,500
Easements/Rights-of-way	\$ 6,400
Other	\$ 1,100

**These other uses are handles through Land Use Licenses for temporary uses not to exceed 10 years. The most common LULs issued are for fishing and hunting outfitting; agricultural diversions; streambank stabilization (rip-rap, gambians, dikes, etc.); and for construction related to bridges, overhead or subsurface utilities or other structures which impact the bed of the river.

3. **How are fees set for uses of submerged lands?** Fees for mineral extraction on submerged lands are the same as those for the same activity on surface lands.

Fees for Easements/Rights-of-way are based on 2 of the appraised market value of the adjoining surface lands.

Fees for licenses are dependent upon the specific use. In most cases these license fees are the same as would be charged for the same use on surface lands.

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Bed of active channels of navigable water B General Fund; Islands or Abandoned Channels B Common School Trust.
5. **How is the submerged lands management program funded?** There is not a specific submerged land management program in Montana. Uses of submerged lands are handles by the same personnel that deal with surface uses and mineral uses. The funding for all of the land administration functions is primarily state General Funds with some additional state special revenues.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** No formal relationship exists between the water quality and other regulatory programs. Environmental regulation of the submerged lands fall under the regulatory authority of other state and federal agencies. As managers of submerged lands (or our lessees), we must comply with the water quality and other related laws.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Yes, the submerged lands are handled by the same personnel that handle all trust surface and mineral programs.

4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No. The DSL and the Land Board considered delegation of the management of submerged lands to other state agencies, counties and municipalities in cases where those entities are utilizing the submerged lands for the benefit of the citizens of the state, but determined that such a delegation was not appropriate.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

Under Montana Coalition for Stream Access v. Hildreth, 211 Mont. 29, 684 P.2d 1088 (Mont., 1984) the public has the right under the public trust doctrine and the Montana Constitution to use any surface waters for recreational purposes without regard to whether the waters are navigable or not. This right includes the ability to traverse the beds and banks of navigable waters up to the high-water mark.

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Not at the current time.

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Certain groups have been challenging whether or not significant or proper environmental review is being done on channelization and various issues in rivers, and who the responsible party is (Army Corps of Engineers, Montana and the Conservation District, or the state as the owner of sovereign lands).
 - b. State ownership from unnatural/natural causes: flooded lands issue, claiming abandoned beds, islands, etc.
 - c. Leasing issues: highest and best use, valuation, easements, improvements, etc.
 - d. Abandoned improvements: is anyone entitled to compensation, who is responsible for cleanup and restoration of the site?
 - e. Public access: both to the beds of the waterway and to adjacent lands.
 - f. Hazardous waste: responsible parties, dealing with state and federal programs, and remediation.

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Submerged Lands Survey 2000

Nevada

**SUBMERGED LANDS SURVEY
NEVADA**

OWNERSHIP/LAND BASE

- 1. What categories of submerged lands do you have and how are they defined?**
One B all interior waterways, either lakes or rivers.
- 2. Acres of freshwater submerged lands managed:** Estimated 79,251 (lakes only - no estimates of rivers). **Miles of freshwater shorelines managed:** -0-
- 3. Acres of marine/tidally influenced submerged lands managed:** -0-
Miles of marine shorelines managed: -0-
- 4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?** Generally, the high-water mark.
- 5. Does the state own islands within navigable waterways?** Potentially.
- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** Potentially B no statute, never had a case.
- 7. Does the mineral ownership move along with the movement of the navigable water body?** Never addressed to date.
- 8. Does the state inventory or survey changes in the boundaries of navigable waters?** No, but we should.
- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Unknown.
- 10. Can you sell submerged lands now? Could you in the past?** Statute is silent. Our policy is that we do not.
- 11. Can you exchange submerged lands now? Could you in the past?** Statute is silent. Our policy is that we do not.

REVENUE

- 1. Total annual revenue from submerged lands:** \$40,000 approximately for FY 2000. Permit fees were reduced during the 1995 legislative session.
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:** -0-
Mostly application fees and permits, a few leases and easements.
- 3. How are fees set for uses of submerged lands?** Fixed fees for permits by statute. Fair market value for easements and leases.
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** The general fund. It is not dedicated to the management of submerged lands and resources.
- 5. How is the submerged lands management program funded?** The general fund.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
- 3. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** In different agencies, but closely linked.
- 4. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not really, although managed by the same staff.
- 5. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No precedent.
- 6. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes, incomplete database.

PUBLIC TRUST DOCTRINE

- 1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Only a few cases. Traditional interpretation.
- 2. Do you have any plans to expand the Public Trust Doctrine in your state?** The political climate makes it presently very unlikely.

ISSUES OF CONCERN

- 2. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Determination of ownership.
 - b. Public access.
 - c. Determination of fair market value (for leases, etc.).
 - d. Setting reasonable fees for uses.
 - e. Rights of riparian landowners.

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Submerged Lands Survey 2000

New Mexico

SUBMERGED LANDS SURVEY

NEW MEXICO

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

None, state has not claimed ownership.

2. Acres of freshwater submerged lands managed: 0

Miles of freshwater shorelines managed: 0

3. Acres of marine/tidally influenced submerged lands managed: 0

Miles of marine shorelines managed: 0

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

State has not claimed ownership.

5. Does the state own islands within navigable waterways? No

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? Not applicable.

7. Does the mineral ownership move along with the movement of the navigable water body? Not applicable.

8. Does the state inventory or survey changes in the boundaries of navigable waters?
No

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Not applicable.

10. Can you sell submerged lands now? Could you in the past? Not applicable.

11. Can you exchange submerged lands now? Could you in the past? Not applicable.

REVENUE

1. Total annual revenue from submerged lands: \$0

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state: 0

3. How are fees set for uses of submerged lands? Not applicable.

4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources? Not applicable.

5. How is the submerged lands management program funded? Not applicable.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Not applicable.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not applicable.
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Not applicable.
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Not applicable.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

In New Mexico, there is no case law specifically addressing the PUBLIC Trust Doctrine. New Mexico case law addresses: the New Mexico Enabling Act, whereby the United States Congress granted specified lands to the state in trust; the authority of the Commissioner of Public Lands, who administers these lands on behalf of the state; and the purposes to which the proceeds from these lands are to be employed.

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** We do not plan to expand the purposes to which the proceeds from these lands are employed.

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?** Not applicable.

CONTACT FOR NEW MEXICO SUBMERGED LANDS:

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Submerged Lands Survey 2000

North Carolina

SUBMERGED LANDS SURVEY NORTH CAROLINA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

North Carolina now follows the modern pleasure craft test in determining whether waters are navigable-in-fact, and therefore subject to public trust rights, as set out by the North Carolina Supreme Court in *Gwathmey v. State of North Carolina*, 342 N.C. 287, 464 S.E.2d 674, 679 (1995). The navigable-in-fact test applies both to tidal and non-tidal waters.

2. Acres of freshwater submerged lands managed: Not available.

Miles of freshwater shorelines managed: Not available.

3. Acres of marine/tidally influenced submerged lands managed: Not available

Miles of marine shorelines managed: Not available.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? North Carolina is a high water mark state.

5. Does the state own islands within navigable waterways? Not available.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? Not available.

7. Does the mineral ownership move along with the movement of the navigable water body? Not available.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Not normally. An exception would be some public funded ocean beach renourishment projects, for which a baseline may be established by survey.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Not available.

10. Can you sell submerged lands now? Could you in the past? Not available.

11. Can you exchange submerged lands now? Could you in the past? Not available.

REVENUE

1. Total annual revenue from submerged lands: See table below.

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:

Aquaculture:

Other materials:

Easements/Rights-of-Way:

SUBMERGED LAND EASEMENTS

Year	How Many	\$Total Revenue
1999	22	18,850
1998	11	18,250
1997	12	13,000
1996	15	11,000
1995	none	

ROW EASEMENTS

Year	How Many	\$ Total Revenue
1999	2	950
1998	1	43,075
1997	5	8025
1996	2	0
1995	2	0

3. **How are fees set for uses of submerged lands?** Fees for aquaculture and marina easements are set by statute. Others are set by the Department of Administration, upon approval of the Council of State.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Not available.
5. **How is the submerged lands management program funded?** Not available.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not available
2. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** The State's water quality regulatory program is administered by the Division of Water Quality of the Department of Environment and Natural Resources (ADENR); the coastal management (including the CZM program,) program is administered by the Division of Coastal Management of DENR; and the proprietary program is administered by the Department of Administration.
3. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Net proceeds from the sale of swamplands are paid into the Literary Fund. Otherwise, the State does not have specifically designated school trust lands.
4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Not available.

5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Not available.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** The North Carolina Supreme has concluded that "in North Carolina, the public trust doctrine operates as a rule of construction creating a presumption that the General Assembly did not intend to convey lands in a manner that would impair public trust rights. Unless clear and specific words state otherwise, terms are to be construed so as to cause no interference with the public's dominant trust rights, for the presumption is that the sovereign did not intend to alienate such rights." However, this presumption is overcome by a special grant from the General Assembly expressly conveying lands underlying navigable waters in fee simple and without reservation of any public trust rights." *Gwathmey v. State*, 342 N.C. 287, 304, 464 S.E.2d 672 (1995). [Citations omitted] "Navigable waters are those, which are navigable-in-fact by useful vessels, including small craft used for pleasure. *Id.*, at 300. "Public trust rights" include those rights held in trust by the State for the use and benefit of the people of the State in common. They are established by common law as interpreted by the courts of this State. They include, but are not limited to, the right to navigate, swim, hunt, fish, and enjoy all recreational activities in the watercourses of the State and the right to freely use and enjoy the State's ocean and estuarine beaches and public access to the beaches. N.C. Gen. Stat. 1-45.1.

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Not available.

ISSUES OF CONCERN

2. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
Not available.

CONTACT FOR DELAWARE SUBMERGED LANDS:

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Submerged Lands Survey 2000

Ohio

SUBMERGED LANDS SURVEY OHIO

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

All of Lake Erie from the natural shoreline to Canada.

2. Acres of freshwater submerged lands managed: 2,235,968

Miles of freshwater shorelines managed: 262

3. Acres of marine/tidally influenced submerged lands managed: Not applicable

Miles of marine shorelines managed: Not applicable

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

Natural shoreline by law.

5. Does the state own islands within navigable waterways? No, except for an island acquired in fee.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No, the state owns submerged lands of Lake Erie, including the lands formerly under water and now artificially filled. The state cannot abdicate the trust property so as to leave reclaimed soil in the control of private persons. Also, any artificial encroachments by public or private littoral owners shall not be considered having prejudiced the rights of the public (in the trust).

7. Does the mineral ownership move along with the movement of the navigable water body? State owns all minerals within and under the bed of lake Erie.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Yes, but on a case-by-case basis. Recession of the Lake Erie shore is surveyed (mapped), but the edge of the bluff (or similar analogous feature) is the reference not the boundary of navigable water.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes: subject to the legislative powers of the state and navigational servitude of the federal government.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. **Total annual revenue from submerged lands:** \$538,000 per calendar year.
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**
There are 543 leases. Approximately 267 are listed as shore erosion structures. Nonwater dependent uses are allowed only on pre-existing (before March 15, 1989) fill areas. By far, most revenue is from water dependent uses of leased areas.
3. **How are fees set for uses of submerged lands?** Fees are set by Administrative Rule.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** 50% to state for management of submerged land and for coastal management purposes; 50% to local political subdivision.
5. **How is the submerged lands management program funded?** By 50% of rental collected and with CZMA funds.

PROGRAM RELATIONSHIPS

2. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Submerged lands administration is part of the state of Ohio Coastal Management Law and CZMA funds support it in several ways: administration, enforcement, adjudication, and education.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Part of the Inter-agency review and CZM consistency provision of the law. These processes are integrated within the submerged lands administrative rules.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No.
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No, only between 1917 and 1955. Municipal corporations and port authorities have authority to control and regulate reclaimed land pursuant to O.R.C. '721.04 to 721.11, subject to limitation and superior authority of the state.
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No.

PUBLIC TRUST DOCTRINE

1. Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.

The state is by law the trustee of the public trust, and cannot abandon its ownership or duties to protect the public trust. 1948 State Supreme Court Case Squires, State of Ohio v. City of Cleveland.

2. Do you have any plans to expand the Public Trust Doctrine in your state? Its application has broadened in Ohio as evidenced by case law in recent years. The Ohio Coastal Management Program is making a concerted effort to better utilize the Public Trust Doctrine.

ISSUES OF CONCERN

What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?

Fairness and equity

Educating lawmakers, shoreline property owners and others. Part of our strategy to improve the program and to overcome the inadequate and inconsistent management of the past is to utilize a prioritized approach to compliance and enforcement matters. (see attached)

CONTACT FOR OHIO SUBMERGED LANDS:

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Submerged Lands Survey 2000

Oklahoma

SUBMERGED LANDS SURVEY OKLAHOMA

OWNERSHIP/LAND BASE

- 1. What categories of submerged lands do you have and how are they defined?**
Minerals under lakes or rivers.
- 2. Acres of freshwater submerged lands managed:** -
Miles of freshwater shorelines managed: Several hundred miles of rivers and lakes.
- 3. Acres of marine/tidally influenced submerged lands managed:** Not applicable
Miles of marine shorelines managed: Not applicable
- 4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?**
State has not claimed ownership.
- 5. Does the state own islands within navigable waterways?** Not applicable
- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** Yes, minerals under lakes or proposed lakes.
- 7. Does the mineral ownership move along with the movement of the navigable water body?** Moves as accretion and riparian might change.
- 8. Does the state inventory or survey changes in the boundaries of navigable waters?**
Not applicable
- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Not applicable
- 10. Can you sell submerged lands now? Could you in the past?** Not applicable
- 11. Can you exchange submerged lands now? Could you in the past?** Not applicable

REVENUE

- 1. Total annual revenue from submerged lands:** -0-
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:** -0-
- 3. How are fees set for uses of submerged lands?** Not applicable
- 4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Not applicable
- 5. How is the submerged lands management program funded?** Not applicable

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Not applicable
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not applicable
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Not applicable
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Not applicable

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Not applicable
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Not applicable

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?** Not applicable

CONTACT FOR OKLAHOMA SUBMERGED LANDS:

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Phone: 405-271-1000
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Submerged Lands Survey 2000

Oregon

SUBMERGED LANDS SURVEY OREGON

OWNERSHIP/LAND BASE

- 1. What categories of submerged lands do you have and how are they defined?**
 1. Beds and banks of navigable lakes and rivers
 2. Tidally influenced, that is, submerged and submersible lands.
 3. Bed and bank of the Territorial Sea.

- 2. Acres of freshwater submerged lands managed:** 200,000 acres.
Miles of freshwater shorelines managed: 5,000 +/- acres.

- 3. Acres of marine/tidally influenced submerged lands managed:** 600,000 acres
Miles of marine shorelines managed: Not available

- 4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?** Generally high water mark, except four grant rivers (low water) in the State, and tidally influenced waters (some high and some low).

- 5. Does the state own islands within navigable waterways?** Yes.

- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** Yes, the state owns to pre-ordinary high water prior to impoundment.

- 7. Does the mineral ownership move along with the movement of the navigable water body?** Yes.

- 8. Does the state inventory or survey changes in the boundaries of navigable waters?** No.

- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Yes. The upland owner had the preference right to lease if the state decides to offer a lease.

ORS 780.040 provides that the owner of any land lying upon any navigable stream or other like water, and within the corporate limits of any incorporated town or within the boundaries of any port, may construct a wharf upon the same, and extend the wharf into the stream or other like water beyond the low water mark so far as may be necessary for the use and accommodation of any ships, boats or vessels engaged exclusively in the receipt and discharge of goods or merchandise, or in the performance of governmental functions upon the stream or other like water.

- 10. Can you sell submerged lands now?** No. **Could you in the past?** No.

- 11. Can you exchange submerged lands now?** Yes. **Could you in the past?** Yes.

REVENUE

1. **Total annual revenue from submerged lands:** \$3,382,000 in FY 97-99 (July 1, 1997- to June 30, 1999).

2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Total land leasing (FY 97-99):	\$38,957,000
Submerged/submersible leases, licenses, easements, etc.	\$3,382,000
Upland leases, timber sales, etc.	\$35,575,500
Submerged/submersible land (FY 97-99):	
Waterway leasing	\$1,784,000
Easements	\$73,000
Sand and Gravel	\$1,216,000
Hydroelectric	\$258,000
Dock Registrations	\$48,500
Aquaculture	\$2,800
Total	\$3,382,000
Upland (FY 97-99):	
Timber Harvesting	\$33,900,000
Oil-Gas Revenue	\$171,000
Mineral Leasing	\$103,000
Other Agency Mineral Leasing	\$266,000
Forage Leasing	\$500,000
Agricultural Leasing	\$221,000
Communications Site Leasing	\$39,500
Tongue Point Lease	\$371,000
Recreational Sites	\$4,000
Total	\$35,575,500

3. **How are fees set for uses of submerged lands?** By administrative rule.

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Revenue is dedicated to the Common School Fund, and used to pay program costs.

5. **How is the submerged lands management program funded?** Common School Fund (that is, revenue derived from leasing etc.).

PROGRAM RELATIONSHIPS

2. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** In managing submerged and submersible lands within the Territorial Sea, the Division complies fully with all of the provisions of Oregon's Coastal Management Program. This program is part of Oregon's statewide program for coordinated land use planning, and was formally approved in 1997 by the United States secretary of Commerce.

3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** The State of Oregon's Removal-Fill

Law (ORS 196.800(14)) governs the removal and filling of material in any waters of the state. The division administers the provisions of the Removal-Fill Law.

4. Are the submerged lands managed in conjunction with the school trust lands and if so, how? Yes. Submerged and submersible land is considered Non-Trust land assigned to the State Land Board/Division by law. The State Land Board also manages Common School Fund Trust Land. All land, Trust and Non-Trust, is managed to fulfill the requirements of the Oregon Constitution, Article VIII, Section 5(2): *The board (State Land Board) shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.*

5. Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state? Yes.

6. Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands? Yes. The division has an active GIS program that is involved in concerning the state submerged and submersible land. A major recently been to inventory all uses of state-owned submerged land associated data layers and documentation of these uses.

PUBLIC TRUST DOCTRINE

1. Please summarize the extent of the Public Trust Doctrine in by your state courts. The public has the right to use the state's navigation, fishing, commerce and recreation. The public trust developed, legally speaking, in Oregon.

2. Do you have any plans to expand the Public Trust Doctrine

ISSUES OF CONCERN

1. What do you see as the top five issues of concern regarding the state's submerged lands and resources?

- a. Ensuring that all uses are authorized.
- b. Determining the navigability of waterways for title purposes.
- c. Streamlining the issuance of authorizations (particularly for navigation).
- d. Ensuring compliance with the salmon recovery plan.
- e. Remediating hazardous and contaminated spoils.

CONTACT FOR OREGON SUBMERGED LANDS:

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Submerged Lands Survey 2000

Pennsylvania

SUBMERGED LANDS SURVEY PENNSYLVANIA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Submerged lands of this Commonwealth are defined by regulations as: Waters and permanently or periodically inundated lands owned by the Commonwealth, including lands in the beds of navigable lakes and rivers and beds of streams declared public highways which are owned and held in trust by the Commonwealth.

2. Acres of freshwater submerged lands managed: Total acreage has not been calculated.

Miles of freshwater shorelines managed: Total miles have not been calculated.

3. Acres of marine/tidally influenced submerged lands managed: Total acreage has not been calculated.

Miles of marine shorelines managed: 120 miles.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Low water mark.

5. Does the state own islands within navigable waterways? The Commonwealth owns islands unless they were specifically conveyed from the Commonwealth to a private owner through a land grant, patent, or other action.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No, dams and reservoirs have no affect on submerged lands.

7. Does the mineral ownership move along with the movement of the navigable water body? Subsurface mineral rights do not. Sand and gravel reserves in the bed of rivers are Commonwealth property.

8. Does the state inventory or survey changes in the boundaries of navigable waters?
No

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes

10. Can you sell submerged lands now? Could you in the past? Selling submerged lands must be authorized by an Act of the General Assembly.

11. Can you exchange submerged lands now? Could you in the past? Exchanging submerged lands must be authorized by an Act of the General Assembly.

REVENUE

1. **Total annual revenue from submerged lands:** \$1,000,000 per annum
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**
Sand/Gravel Royalties: \$750,000
Submerged Lands License Agreements (occupancy rights): \$250,000
3. **How are fees set for uses of submerged lands?** Sand and Gravel Royalties and Submerged Lands License Agreement fees are established by regulation.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Sand and gravel royalties are shared: 90% goes to the Pennsylvania Fish and Boat Commission and 10% goes to the Commonwealth's Clean Water Fund. Submerged Lands License fees are deposited into the Commonwealth General Fund.
5. **How is the submerged lands management program funded?** Commonwealth General Fund allocation via annual budget.

PROGRAM RELATIONSHIPS

2. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** DEP's Coastal Zone Management program provides federal and state consistency coordination for projects within CZM areas. Individual permit actions, licenses and fees are the program responsibility of the Bureau of Water Quality Protection.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Permits, Submerged Lands License Agreements, and Sand and Gravel Royalty Agreements are coordinated programs within the Bureau of Water Quality Protection.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** No
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Yes, when specifically authorized by statute.
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Pennsylvania is developing GIS capabilities at this time. It is anticipated that submerged lands of the Commonwealth will eventually be included as a data layer.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
The case of Black v. American International Corp., 264 Pa 260 (1919) confirms the

public's rights of navigation, fishery and improvement below ordinary high and low marks in rivers. This also applies to navigable lakes (Conneaut Lake Ice Co. v. Quigley, (225 Pa 615 (1909))).

2. Do you have any plans to expand the Public Trust Doctrine in your state? No

ISSUES OF CONCERN

1. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?

- a. More definitive demarcation and limits of the extent of submerged lands.
- b. Public access to public lands along Lake Erie.

CONTACT FOR PENNSYLVANIA SUBMERGED LANDS:

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Submerged Lands Survey 2000

Rhode Island

SUBMERGED LANDS SURVEY RHODE ISLAND

OWNERSHIP/LAND BASE

- 1. What categories of submerged lands do you have and how are they defined?**
All tidal areas.
- 2. Acres of freshwater submerged lands managed:** Not applicable.
Miles of freshwater shorelines managed: Not applicable.
- 3. Acres of marine/tidally influenced submerged lands managed:** Not applicable.
Miles of marine shorelines managed: 420
- 4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?**
Mean high-water mark.
- 5. Does the state own islands within navigable waterways?** Yes.
- 6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?** No.
- 7. Does the mineral ownership move along with the movement of the navigable water body?** Not applicable.
- 8. Does the state inventory or survey changes in the boundaries of navigable waters?**
No. Rely on USGS and a University of Rhode Island study (both in GIS format).
- 9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)?** Yes.
- 10. Can you sell submerged lands now? Could you in the past?** Ownership of submerged land is available currently from/by Legislative grant only.
- 11. Can you exchange submerged lands now? Could you in the past?** Ownership of submerged land is available currently from/by Legislative grant only.

REVENUE

- 1. Total annual revenue from submerged lands:** \$-0-
- 2. Please break down the total annual revenue either by the following categories or by the categories you track in your state:** -0-

3. **How are fees set for uses of submerged lands?** Submerged land program being implemented in phases. Currently, aquaculture operations are assessed a fee based on their size.
4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** State General Fund.
5. **How is the submerged lands management program funded?** State/federal appropriations.

PROGRAM RELATIONSHIPS

2. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** They are one in the same.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** All regulatory program requirements are separate from the submerged lands program. If the regulatory program allows submerged land uses, the submerged lands program assesses an annual fee.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not applicable.
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Submerged lands uses such as moorings are managed by the municipalities, with delegated authority from the RICRMC. (No other local body can manage submerged lands.)
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** No, however, the RICRMC will want to obtain/create this information.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**
Lands below the mean high-water are public/managed by the state. Any use requires protection of public interest. Any fill of tidal waters/lands retains public trust interest.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** See attached legislation.

ISSUES OF CONCERN

1. What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?

1. Public trust interests.
2. Education.

CONTACT FOR RHODE ISLAND SUBMERGED LANDS:

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Submerged Lands Survey 2000

South Dakota

SUBMERGED LANDS SURVEY SOUTH DAKOTA

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

No particular categories have been designated. The definition, as set out in South Dakota Codified Law 5-2-4, states that the bed and channel of any lake or river in this state and all islands and sand bars lying therein shall be considered the property of the State of South Dakota.

2. Acres of freshwater submerged lands managed: Not applicable.

Miles of freshwater shorelines managed: Not applicable. (These measurements have not been accurately made.)

3. Acres of marine/tidally influenced submerged lands managed: None.

Miles of marine shorelines managed: None.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

We own to the low-water mark and from the low- to high-water mark is called Joint Use.

5. Does the state own islands within navigable waterways? Yes.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how?

Federal impoundments, Missouri River dams, are owned by the Federal Government. In South Dakota, you need a water permit to build a private dam.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters? No.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? (Response was for water rights, not riparian right to use submerged lands.)

10. Can you sell submerged lands now? Could you in the past? No, submerged lands cannot be sold now, nor were they sold in the past.

11. Can you exchange submerged lands now? Could you in the past? No to both.

REVENUE

1. Total annual revenue from submerged lands: \$-0-

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state: -0-

3. How are fees set for uses of submerged lands? There are no fees. The only area we utilize is sand and gravel, which we negotiate on a per-ton basis.

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Any revenue would go to our lease income.
5. **How is the submerged lands management program funded?** Appropriated funds.

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Not applicable.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Money is appropriated for activities such as weed control along shorelines the same as it is for school trust lands.
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No.
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Not currently; probably in the next few years.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** No response.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** No.

ISSUES OF CONCERN

2. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Finding and developing uses for submerged lands, which create a monetary value.
 - b. Accurately surveying lakes and rivers to establish definite ownership.
 - c. Be given the authority to trade or sell submerged lands.
 - d. Strengthen statutes dealing with accretion.

CONTACT FOR SOUTH DAKOTA SUBMERGED LANDS:

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Submerged Lands Survey 2000

Tennessee

SUBMERGED LANDS SURVEY TENNESSEE

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

None.

2. Acres of freshwater submerged lands managed: 0

Miles of freshwater shorelines managed: 0

3. Acres of marine/tidally influenced submerged lands managed: 0

Miles of marine shorelines managed: 0

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark?

Low-water mark.

5. Does the state own islands within navigable waterways? Yes

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No response

7. Does the mineral ownership move along with the movement of the navigable water body? Yes

8. Does the state inventory or survey changes in the boundaries of navigable waters? C.O.R.P.S.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes, by permit.

10. Can you sell submerged lands now? Could you in the past? No

11. Can you exchange submerged lands now? Could you in the past? No

REVENUE

1. Total annual revenue from submerged lands: Not applicable

2. Please break down the total annual revenue either by the following categories or by the categories you track in your state: Not applicable or unknown. The Department of Finance & Administration has acquired a GIS Program, but currently, we don't have program capability to answer these types of questions.

3. How are fees set for uses of submerged lands? Not applicable

4. **Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources?** Not applicable
5. **How is the submerged lands management program funded?** Not applicable

PROGRAM RELATIONSHIPS

1. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** Not applicable
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not applicable
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Not applicable
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** The Tennessee Wildlife Management Department does have an extensive GIS program regarding wetlands.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Attorney General Opinion.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** The Attorney General Opinion mentioned above would be the basis of such an expansion if used by the courts.

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?** Not applicable B Only wetland management by state and private groups.

CONTACT FOR TENNESSEE SUBMERGED LANDS:

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Submerged Lands Survey 2000

Texas

SUBMERGED LANDS SURVEY TEXAS

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Tidewaters owned by the State of Texas as defined in the Texas Natural Resources Code (TNRC), Chapter 31, Section 31.101: Areas within tidewater limits means islands, saltwater lakes, bays, inlets, marshes, and reefs within tidewater limits and that portion of the Gulf of Mexico within the jurisdiction of Texas. The jurisdiction of Texas extends out to the three marine league limit or 10.36 miles offshore. The boundary between submerged state-owned lands and upland private ownership is defined according to the applicable law under which the upland grant was made.

Riverbeds owned by the State of Texas are determined on a case-by-case basis based on Civil Law and/or Common Law, whichever is applicable to the adjacent upland grant. The boundaries of a state-owned riverbed are determined by means of a gradient boundary survey, which must be performed by a licensed state land surveyor.

Lakes owned by the State of Texas can be either fresh or saltwater. Saltwater lakes are owned by the State of Texas as defined in TNRC, Chapter 31, Section 31.101. Freshwater lakes owned by the State of Texas are determined on a case-by-case basis.

2. Acres of freshwater submerged lands managed: 1,000,000 acres
Miles of freshwater shorelines managed: An estimate of miles of freshwater and marine shorelines managed is 200,000.

3. Acres of marine/tidally influenced submerged lands managed: 4,999,803
Miles of marine shorelines managed: An estimate of miles of freshwater and marine shorelines managed is 200,000.

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? The state owns the beds of navigable waters to the extent of the mean high or higher tide.

5. Does the state own islands within navigable waterways? The state owns islands and accretions thereto that have not been granted out.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? No.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes.

8. Does the state inventory or survey changes in the boundaries of navigable waters? Yes.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Adjacent upland owners may build projects only with permission and a permit from the State.

10. Can you sell submerged lands now? Could you in the past? No to both.

11. Can you exchange submerged lands now? Could you in the past? Yes to both.

REVENUE

1. Total annual revenue from submerged lands: \$85,000,000

Please break down the total annual revenue either by the following categories or by the categories you track in your state:

Oil and Gas Related:	\$83,000,000
Coastal Miscellaneous Easements:	770,500
Coastal Leases and Easements, Short-Term:	327,650
Coastal Leases and Easements, Long-Term:	435,087
Coastal Surface Leases:	60,234
Cabin Permits:	189,324
Aquaculture:	15,000

2. How are fees set for uses of submerged lands? All fees are set by the School Land Board or the Texas Land Commissioner following publication in the Texas Register. Fees are based upon actual land use, which is subdivided into three general categories: public, residential and commercial/industrial. Public and residential uses generate minimal revenue.

Public uses are intended to encourage recreation, infrastructure development/use and widespread benefit, while residential uses are limited in scope and allowed as incident to ownership of riparian land. Fees for public uses usually range from no fee to \$100 per year for projects ranging from county parks to construction of piers, docks, wharves, bulkheads and other similar structures.

Commercial/industrial use of submerged land is allowed, subject to compliance with federal and State law. Fees for uses such as commercial marina facilities, restaurants and structures associated with upland industrial and commercial uses are based on a formula that uses the appraised value of the littoral property and a rate of return that is adopted by the School Land Board.

It should be noted that miscellaneous uses, which do not fall within the above categories, are generally subject to rates set by the Land Commissioner. For example, pipeline easements for crossing tidally influenced rivers are payable on a per rod basis, the fee for which ranges from \$9 to \$21.

3. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources? Revenue from cabin permits is used by the General Land Office for salaries.

With the exception of revenue from cabin permits, revenue derived from leases with a term of less than 20 years goes into the Available School Fund; oil and gas revenue and revenue derived from leases with a term of 20 years or longer goes into the Permanent School Fund. Both funds are used to finance public education.

4. How is the submerged lands management program funded? In addition to revenue generated by cabin permits, we are funded by appropriation from the Legislature.

PROGRAM RELATIONSHIPS

2. **For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** As the lead agency, the General Land Office coordinates the activities of the Coastal Coordinating Committee and the Coastal Management Program.
3. **What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** The water quality programs are administered by the Texas Natural Resources Conservation Commission. Under the Coastal Management Program, these two agencies, in conjunction with the U.S. Corps of Engineers, are the primary enforcement agencies for wetland protection.
4. **Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Yes. The same division leases submerged lands and trust lands.
5. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** Yes, through leases.
6. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.**

The Public trust doctrine in Texas is largely confined in use and application to the submerged lands of the State. There are no federal trust lands in Texas; rather, the doctrine has been historically adopted from Spanish and Roman law as applicable to the lands of the public domain of the Republic, now the State, of Texas. Submerged lands may be granted or alienated only by the Legislature, but having been dedicated to the Permanent School Fund, are managed and leased by the General Land Office.

The public trust doctrine in Texas can be modified only by legislative action or court decision. A quote from a recent Texas case states in pertinent part that the public trust doctrine has not fared well in Texas jurisprudence. See Natland Corporation et. al. V. Baker's Port, Inc. 865.S.W.2d 52 (TX. App. B Corpus Christi 1993 re'h denied).

2. **Do you have any plans to expand the Public Trust Doctrine in your state?** No.

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 - a. Protecting environmental resources.
 - b. Providing more staffing for enforcement and monitoring.
 - c. Finalizing and implementing a state coastal zone management program.

- d. Generating revenue for the Permanent School Fund.
- e. Preventing and responding to oil spills B minimizing regulatory burden to industry as a result of the oil spill program.
- f. Promoting economic development of the Gulf Coast, particularly as directly related to state lands, and maintaining a good relationship with the private sector.
- g. Balancing the demand for land development and environmental conservation interests.

CONTACT FOR TEXAS SUBMERGED LANDS:

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Submerged Lands Survey 2000

UTAH

SUBMERGED LANDS SURVEY UTAH

OWNERSHIP/LAND BASE

1. What categories of submerged lands do you have and how are they defined?

Sovereign lands received under equal footing doctrine including beds of navigable lakes and rivers, (no tide lands/marine lands) r lands received in exchange thereof. Ownership is up to the ordinary high water mark or meander survey in some cases where high water is unknown.

2. Acres of freshwater submerged lands managed: 1,500,000 (approximately 200,000+ 1,300,000 of Great Salt Lake).

Miles of freshwater shorelines managed: 1,650 Utah Lake, Bear Lake, Colorado, Green, Jordan and Bear River.

3. Acres of marine/tidally influenced submerged lands managed: Not available

Miles of marine shorelines managed: Not available

4. Does the state own the beds of navigable waters to the extent of the high-water mark or low-water mark? Ordinary high water mark or meander line in some cases.

5. Does the state own islands within navigable waterways? Not those above high water mark except islands which have been created through deposition of alluvium. Some state agencies have purchased islands. Islands which have been circumscribed in meander surveys of navigable rivers are not owned by the state.

6. Is ownership of submerged lands affected by human-made dams or other impoundments and if so, how? Ownership is not, although the determination of the ordinary high water mark at statehood may be. No court cases on effect of structures on ownership. The state's claim of ownership extends to the ordinary high water mark at statehood. In some cases, the ordinary high water mark has been obliterated by operation of the man-made impoundment. This has resulted in boundary establishment by negotiation with upland owners. Ownership is otherwise unaffected. Ownership does not change with the water level.

7. Does the mineral ownership move along with the movement of the navigable water body? Yes B claim such.

8. Does the state inventory or survey changes in the boundaries of navigable waters? In some cases.

9. Is your state a riparian rights state (i.e. the adjacent upland owner has the right to wharf out onto state-owned submerged lands)? Yes

10. Can you sell submerged lands now? Could you in the past? No, to sales now. Yes, rarely in the past. Sale had to benefit public trust forever or revert back to state. Generally exchanges were used.

11. Can you exchange submerged lands now? Could you in the past? Yes. Yes, rarely. Same stipulations as No. 10 above.

REVENUE

1. **Total annual revenue from submerged lands:** \$1,500,000 for fiscal year 2000.
2. **Please break down the total annual revenue either by the following categories or by the categories you track in your state:**

Total land leasing: \$1,500,000

Water-dependent leases: \$1,460,300

Non water-dependent leases: \$39,700

Aquaculture: -0- only by brine shrimp revenues to DWR

Oil/Gas: \$2,000

Sand/gravel: -0-

Other minerals: \$1,412,400

Easements/Rights-of-way: \$33,200

Other (please describe):

Grazing: \$2,100

Special use leases: \$50,300

3. **How are fees set for uses of submerged lands?**

R652-70-600. Lease Rates

- a. Procedures for determining fair market value for surface leases are found in R652-30-400. Where these general procedures can not readily be applied, fair market value for sovereign lands may also be determined by multiplying the market value, as determined by the State Tax Commission, of the adjacent upland by 30%.
- b. Procedures for determining lease rates are described in R652-30 Special Use leases. Lease rates for sovereign lands may also be determined by multiplying the fair market value, as determined by R652-70-600(1), by the current division B determined interest rate and then prorating that amount by season of use adjustment as determined by the division.
- c. Regardless of lease rate determined by R652-70-600(2), no Special Use Lease shall be issued for an amount less than the minimum lease rate determined by the board.

R652-70-700. Permit Rates

- a. No application fee shall be charged for public agency use of sovereign lands if the director determines that the agency use enhances public use and enjoyment of sovereign land.
- b. No rental shall be charged for public agency use of sovereign lands if the director determines that a commensurate public benefit accrues from the use.
- c. The division shall establish rental rates for any private recreational use of sovereign land as outlined under R652-70-300(2)(c). The adjacent upland owner shall also pay to the division, in accordance with its current fee schedule, the division's expenses in issuing a general permit.
- d. The director may negotiate a filing fee for general permits with impacted governmental agencies. This would be a one-time package fee for currently existing uses of sovereign lands. Future application for use will be treated under the existing fee schedule or may be authorized by the amendment of an existing permit, after payment of an amendment fee pursuant to R652-4.
- e. The director may enter into agreements with state agencies having regulatory

authority on navigable lakes and rivers to allow these agencies to authorize public agency use of sovereign land provided that:

- i. The use is consistent with board policies and coordinated with other activities of the division;
- ii. The applicant has an existing general permit in good standing under which the proposed use can be placed pursuant to R652-70-700(3);
- iii. A commensurate public benefit accrues from the use, as indicated by criteria provided in the agreement;
- iv. The proposed use meets the criteria required by the state agency; and
- v. The proposed use is consistent with the principles of multiple use and sustained yield as defined in Section 65A-1-1.

R652-30-400. Lease Rates

1. The division shall receive at least fair market value for surface leases. Fair market value of the subject property shall be determined by the division based upon a market analysis including:

- (a) The income-producing ability of the highest and best use of the property; and
- (b) A market study of comparable values of similar properties.

2. Lease rates shall be based on fair market value. Lease rates may be determined by the division by:

- (a) Multiplying the fair market value of the subject property by the current division-determined interest rate.
- (b) Comparable lease data which may include percentage rent based on either net or gross income with a guaranteed minimum.
- (c) Using either a fixed rate per acre or a crop-share formula for agricultural leases providing that the rental rate is customary and reasonable. The division may require the lessee to acquire adequate crop insurance.

3. The division may periodically establish minimum lease rates for special use leases based on the costs incurred in administering the leases, and a desired minimum rate of return.

4. Rental Review Procedures for Special Use Leases

(a) Standard

I) Base rentals shall be adjusted as of the effective date specified in the respective lease through a lease review conducted by the division. Any lease which is reviewed within one year of the effective date specified in the lease shall be deemed to have been reviewed timely and any adjustment in base rentals shall be as of the effective date.

II) Adjustments in base rentals may be based upon changes in the market value, changes in established indices, or other methods which may be appropriate and in the best interest of the trust beneficiaries. The determination of which method to use may be based upon an analysis of the cost effectiveness of performing the review.

III) When using established indices, the rate of adjustment shall be the sum of the indices established for the years involved in the review period, unless the rate of adjustment exceeds a maximum adjustment rate, or fails to reach a minimum rate of adjustment as specified in the respective lease. If no maximum adjustment rate or minimum rate of increase is specified in the lease, then the percent change will increase or decrease according to the above described rate of adjustment.

- IV) The index/indices used by the division shall be established by the board, and shall reflect the percent of change to be required in the base rental of applicable leases.

The index/indices may be amended at any time during the first quarter of the calendar year using information from any or all of the following sources: a) changes in assessed value for the most current year for the appropriate category of land as published by the State Tax Commission; b) the applicable component of the CPI-U; c) the applicable Implicit Price Deflators for the Gross National Product; d) data from market analysis of comparable leases; and e) public comment.

- V) A separate index shall be established for each of the following lease types: a) commercial/industrial; b) residential; c) agricultural; and d) recreational.
- VI) For the purpose of this rule, the Military, Telecommunications, and Governmental lease types shall be adjusted using the Industrial Index.
- VII) The adjusted rental amount as determined pursuant to this rule shall be rounded to the nearest easily divisible by \$10.
- (b) Unit Development B Rental adjustments for unit development leases shall be based upon changes in the market value of the property or the applicable index as may be appropriate as determined by the division.
- (c) Suspension, Deferral, and Waiver of Lease Rental Adjustment B The director may suspend, defer, or waive the adjustment base rentals in specific instances when justified by natural disasters or periods of economic crises, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

4. Where does the revenue derived from submerged lands go? Is it dedicated to the management of the submerged lands and resources? Prior to March 22, 1994 revenues, after expenses, were appropriated to public schools. After that date, there was created a sovereign lands management account consisting of all revenues derived from sovereign lands. As of June 30 yearly, the unappropriated portion of this account is non-lapsing and available for appropriation by the legislature. The new law is mute about to whom it could be appropriated.

5. How is the submerged lands management program funded? All expenditures of the division relating directly to the management of sovereign lands are funded by appropriation by the legislature from the sovereign lands management account or other sources.

PROGRAM RELATIONSHIPS

- 1. For states on the coast, what is the relationship between the Coastal Zone Management (CZM) program and the submerged lands proprietary management program?** Not applicable.
- 2. What is the relationship between the water quality and regulatory programs and the submerged lands proprietary program?** All actions on sovereign lands must have prior Corps of Engineers 404 or State Engineers permits.
- 3. Are the submerged lands managed in conjunction with the school trust lands and if so, how?** Not after March 1994. Leases are now separate.

4. **Can cities, counties, port districts or other municipalities manage state submerged lands on behalf of the state?** No. the Division of Parks and Recreation and the Division of Wildlife Resources or other state agencies may delegated management authority, but only for lands set aside for recreation.
5. **Do you have a Geographic Information System (GIS) that includes information about the state's submerged lands?** Yes.

PUBLIC TRUST DOCTRINE

1. **Please summarize the extent of the Public Trust Doctrine in your state as defined by your state courts.** Very little in Utah. It has been identified as applying to sovereign lands but there have been no cases testing the duties to protect public trust or defending it. There is, however, current litigation involving boundary issues that will affect public trust issues.
2. **Do you have any plans to expand the Public Trust Doctrine in your state?** Yes. The State is actively pursuing issues involving Federal and private parties where sovereign lands have been claimed and public trust values are adversely impacted.

ISSUES OF CONCERN

1. **What do you see as the top five issues of concern regarding your management of the state's submerged lands and resources?**
 1. CERCLA
 2. Negotiation of boundaries by agreement where ordinary high water mark is not evident.
 3. Ownership changes when river course changes.
 4. Rates paid by industry for use for sovereign lands.
 5. Protection of sovereign land/public trust values and uses
 6. Federal claims to sovereign lands on Great Salt Lake.
 7. Effects of re-channeling on river ownership and environmental issues

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Submerged Lands Survey 2000

Washington

Key Information About the Washington Aquatic Resources Program

Acreage Information

- Steward of 2.6 million acres of freshwater shorelands, salt water tidelands, and beds of navigable lakes, streams and saltwater.
- 800,000 acres of beds and navigable rivers and lakes (37%).
- 89,600 acres of shores of navigable rivers and lakes (4%).
- 131,200 acres of tidelands (6%).
- 1,152,000 acres of beds of marine lands (53%).
- 7,000 acres of Harbor Area (3%).
- 203,800,000 miles of shoreline

Region Information

- NE: 2,181 acres B 199 use authorizations
- SE: 1,050 acres B 358 use authorizations
- Olympic: 4,496 B 253 use authorizations
- NW: 12,850 acres B 832 use authorizations
- SPS: 5,608 acres B 1,167 use authorizations
- SW: 1,837 acres B 277 use authorizations
- Central: 2,319 acres B 313 use authorizations

Uses

- Water dependent: 9,211 acres
 - Aquaculture: 1,953 acres
 - Marina Leases: 764 acres
- Non-water dependent: 239 acres
 - Public Access: 8,216

Geoduck Facts

- Commercial geoduck resource: 136 million pounds, 26,000 acres, 257 tracts, \$14.7 million for FY 97-99

Lease Information

- Manage state-owned aquatic lands for water- and non-water dependent uses.

Water Dependent

- \$9.9 million for FY 97-99
- 303 marina/moorage
- 66 docks
- 154 recreation
- 154 aquaculture
- 106 transportation/shipping

Non-Water Dependent

- \$2.6 million for FY 97-99
- 54 log storages
- 85 outfalls
- 42 miscellaneous

Stewardship Information

- All new use authorizations subject to environmental review.
- Regional planning efforts underway in Commencement Bay, Bellingham Bay, Kitsap County, and Fidalgo Bay.
- 323 miles of shorelines (Whatcom & Skagit counties) inventoried for nearshore habitat.
- Floating kelp resources inventories along 160 miles of shoreline in Clallam and Jefferson counties.
- Invasive weed control effort underway in Willapa Bay.
- Natural Resource damage assessment and restoration planning ongoing in all oil spills, Commencement Bay and Eagle Harbor.
- 20 Puget Sound Landscape planning units (targeted for completion within 2 years).

Financial Information (97-99 Biennium)

Costs

- \$12.4 million O&M budget
- \$2.3 million in Eagle Harbor Proviso
- \$6 million new ALEA grants
- \$1.9 million reappropriated ALEA grants
- Up to \$2,000 per lease up to prosecution
- 86.2 FTE O&M budget

Revenue

- \$28.9 million projected
- \$0.9 million from PSDDA
- \$14.7 million from Geoducks
- \$12.5 million from Leasing
- \$0.8 million from Aquaculture