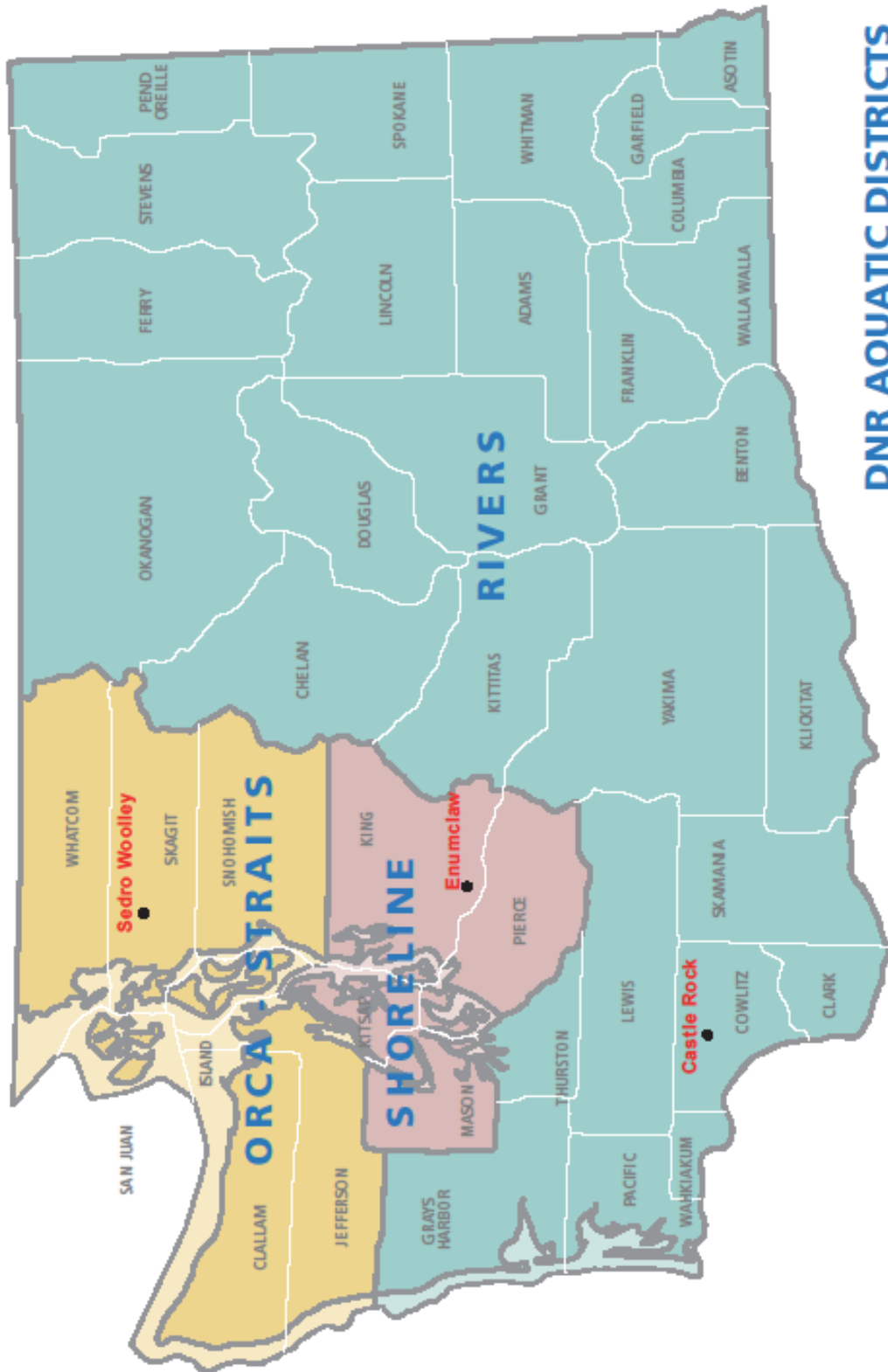


## **Appendix C - Fidalgo Bay Aquatic Reserve References**

- **Map - DNR Aquatic Districts**
- **Map – Washington State Aquatic Reserves**
- **Fact Sheet - Aquatic Reserves Program**
- **Folio – State-owned Aquatic Lands (2 pages)**
- **Map - Fidalgo Bay Aquatic Reserve**



**DNR AQUATIC DISTRICTS**





## Aquatic Reserves Program

DNR PROTECTS PUGET SOUND BY CONSERVING AQUATIC LANDS

The Washington state Department of Natural Resources (DNR) is steward of more than 2.6 million acres of aquatic lands—beaches, the coast, lands under Puget Sound and navigable lakes and rivers. As steward, DNR is establishing aquatic reserves throughout the state to protect important native ecosystems.

The Aquatic Reserves Program focus is to conserve high-quality native ecosystems in both freshwater and marine environments. It is an effort to promote the preservation, restoration, and enhancement of state-owned aquatic lands that are of special educational, scientific, or environmental interest.



Cherry Point Aquatic Reserve located in Whatcom County.  
Photo: DNR

### Partnerships for Conservation

A benefit of the Aquatic Reserves Program is the partnerships we establish to aid in development and implementation of site-specific aquatic reserve management plans. DNR works with federal, state, local, tribal and non-governmental organizations and private citizens in an effort to identify important resources for conservation at each reserve. An additional benefit of Aquatic Reserve designations is that management plans can be designed to compliment other protective measures within or adjacent to the site.

### Types of Aquatic Reserves

- Environmental—reserves that promote conservation and restoration.
- Scientific—reserves that provide unique aquatic habitats for research.
- Educational—reserves that promote opportunities for field-based environmental education.

### Establishing new Reserves

Public and private organizations and individuals may propose a site for aquatic reserve designation. Interested parties are required to submit a letter of intent to DNR's aquatic reserves program.

If the site meets the aquatic reserve program criteria, DNR and the site proponent will develop an official proposal, host open houses for public input and review. The last step will be to work on a draft management plan of goals and objectives for the site to ensure proper protection.

### Uses within Aquatic Reserves

Managing aquatic reserves does not affect private or other adjacent land ownership. Due to longstanding use authorizations and/or leases, it may be necessary for DNR to continue authorizing existing mixed uses within an aquatic reserve. DNR will emphasize mitigating impacts by enhancing the health of the ecosystem components with a reserve, and will work to ensure negative impacts of existing uses are reduced in the long term.

#### AQUATIC RESERVES PROGRAM

Washington State Department of Natural Resources | 1111 Washington St. SE | PO Box 47001 | Olympia, WA 98504-7001  
Phone 360-902-1111 | FS11-028 PUBLISHED 12/01/2011



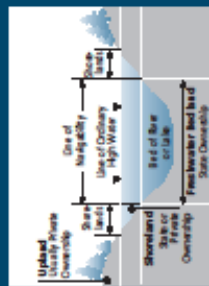
Because constant change is inherent in lands along waterbodies, further research or surveys are needed to fully understand and settle ownership issues.



owned, as are 30 percent of the tidelands and 75 percent of shorelands in the state. Non-navigable bodies of water are not owned by the state, and are likely to be connected in time to the abutting upland property.

(Continued from previous page)

Although owners of lands abutting state-owned aquatic lands did not receive " riparian" rights at statehood, for more than 80 years they could purchase tidelands or shorelands from the state. In 1971, the sale of the state's aquatic lands was stopped by the state legislature. Today, virtually all the beds of navigable waters are state



Shorelands



Tidelands

## Key ownership concepts and how ownership is determined

When questions of ownership arise regarding aquatic lands, two basic time-honored principles are applied. The riparian ownership doctrine for submerged lands is based on whether a specific water body is navigable or is influenced by tides. If the answer to either is yes, it may be, or at one time may have been, state-owned land.

Using these principles, ownership within main water bodies of the state is relatively straightforward to establish. However, when it comes to locating specific boundary lines involving lakes, rivers and streams, ownership is more complex.

At statehood, federal riparians would not be conveyed without a survey. While carrying out surveys of the uplands, the U.S. General Land Office laid out important bodies of water — surveys laid out "meander lines" that addressed the fluctuations of the shoreline (see back page diagram). Originally, ownership was defined using the natural condition of the navigable waterbodies at statehood in 1889. But because riverbanks and shorelines move over time, the ownership also may change. Washington State considers those bodies of water that were meandered by government surveys as navigable unless otherwise declared by a court.

**Navigability-for-tide**  
Concepts about navigability are used to guide a host of legal relationships covering maritime law, titles, and rights of use, to name a few. In this discussion the terms specifically represent navigability-for-tide.

DNR follows the rule that "navigability or navigable" means that a body of water is "capable or susceptible" of navigation — that is, that the water body has a bed, is now, or could be used for the transport of useful commerce.

Federal law governs ownership title based on navigability, and it is a question of law, mainly determined by federal court. But courts at all levels do consider title by navigability disputes and questions such as: What does "capable or susceptible" mean — when do the lake, stream or river demonstrate

that it was, or could be, navigable? What if a river, lake or stream was not meandered by the General Land Office surveys? The mere ability to float a log or canoe does not always meet the "transport of useful commerce" test. So, what types of uses for title or travel support a finding of navigability? Considering these questions, navigability status and state ownership of aquatic lands are decided on a site-by-site basis, and ultimately may need to be determined by the U.S. Supreme Court.

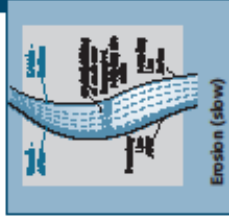
DNR continues to catalogue information on navigability of the state's lakes, streams and rivers. Work entails research into U.S. General Land Office and other records, surveys, and geographic mapping.

### Shoreline changes and ownership

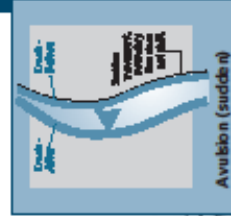
Where shoreline locations change, exactly how the build-up or erosion of land occurs helps determine ownership. In general, when shorelines change gradually by accretion, erosion, reliction, the ownership boundaries change.

However, when shorelines change rapidly through landslides, dredging and volcanic eruptions (leakboils), ownership boundaries do not change. This means that if an adverse event occurs and aquatic lands become dry and have the characteristics of uplands, they still may be owned by the state and managed by DNR.

Because constant change is inherent in land along water bodies, further research or surveys are usually needed to fully understand and settle ownership issues in these dynamic situations.



Erosion (slow)



Avulsion (sudden)



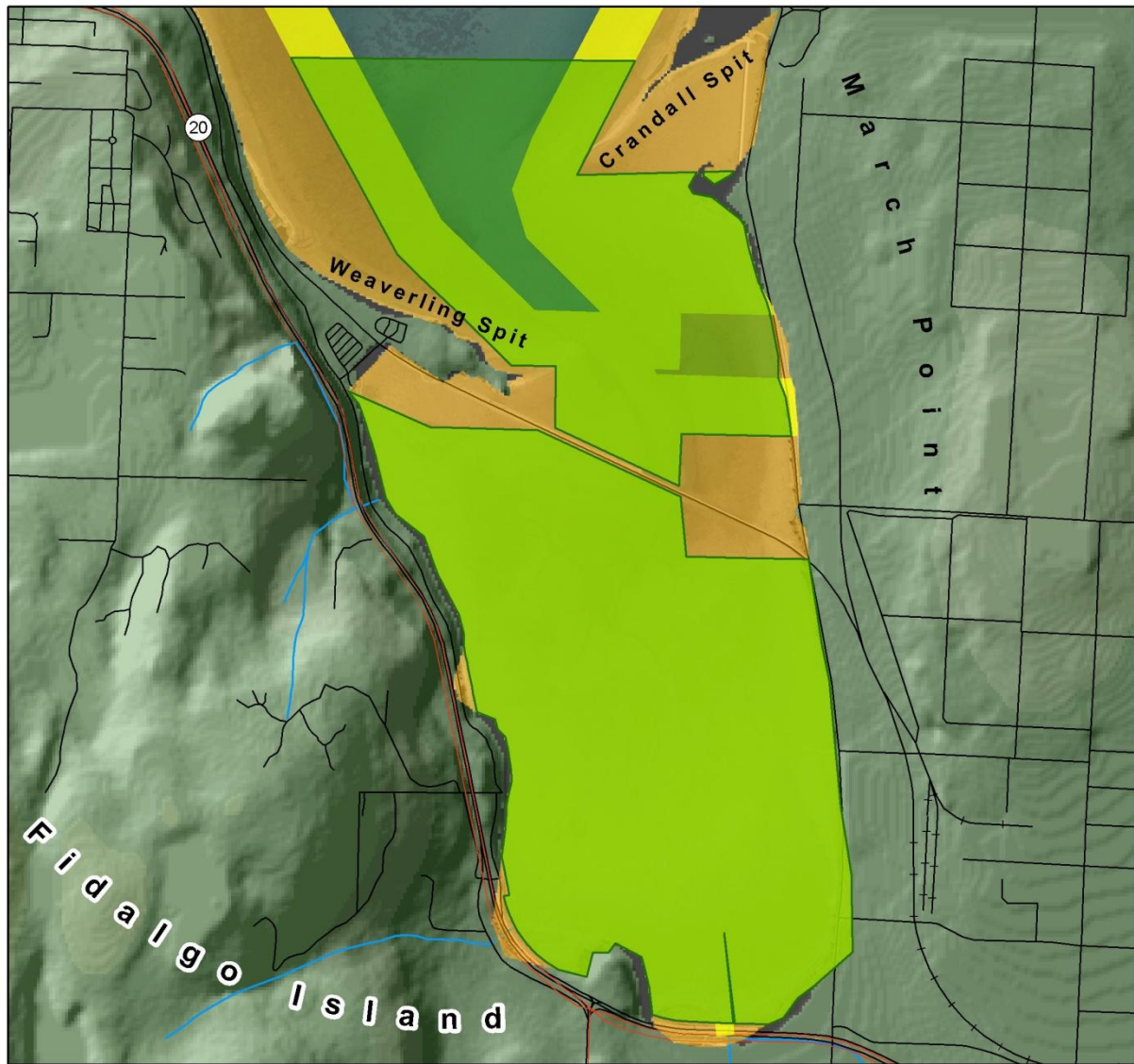
How state-owned aquatic lands are to be managed. The legislature recognized our state's aquatic lands as a "finite natural resource of great value and an irreplaceable public heritage." As stewards of the 2.4 million acres of state aquatic lands, Washington's Department of Natural Resources must consider the natural values and best uses of these lands before leasing or authorizing changes to the lands, while also applying fundamental ownership principles.

DNR is to balance benefits for people of the state, while working with private individuals who desire to use aquatic lands for their particular purpose. Decisions must be in the long-term best interest of the public. The broad guidelines for managing state-owned aquatic lands are to:







- encourage direct public use and access;
- foster water-dependent uses;
- ensure environmental protection;
- utilize renewable resources; and
- generate revenue consistent with those goals.

Land ownership is central to DNR's Aquatic Resources programs, and sometimes conflicts of law over who has title to the lands and who controls their use. Laws that began at statehood help clarify ownership issues.

## FIDALGO BAY AQUATIC RESERVE



### Legend

-  Fidalgo Bay Aquatic Reserve  
Includes all state-owned DNR managed tidelands and bedlands
-  Roads
-  Highway
-  Watercourse
- Assumed Ownership**
-  State Owned  
DNR Managed Aquatic Tidlands
-  Non-DNR Managed Aquatic Tidlands

Every attempt was made to use the most accurate and current geographic data available. However, due to multiple sources, scales, and the currency of the data used to develop this map, the Washington Department of Natural Resources cannot accept responsibility for errors and omissions in the data. Furthermore, this data is not survey grade information and cannot be substituted for an official survey. Therefore, there are no warranties that accompany this material.

Cartographer: Michael Grilliot, March 2010  
North American Datum 1983  
Washington State Plane South

