TIDELANDS

• TIDELANDS ARE LANDS NOW OR FORMERLY FLOWED BY THE MEAN HIGH TIDE OF A NATURAL WATERWAY

• THE STATE ASSERTS AN OWNERSHIP INTEREST IN ALL TIDELANDS NOT PREVIOUSLY SOLD VIA RIPARIAN GRANTS
TIDELANDS

• TIDELANDS IN NEW JERSEY ARE FOUND IN ALL COUNTIES EXCEPT WARREN, HUNTERDON, SUSSEX AND MORRIS

RIPARIAN STATUTES

• NJSA 12:3 1 to 28
• NJSA 13:1B-13.1 to 13.14
• ONLINE: WWW.NJLEG.STATE.NJ.US
• UNDER “Laws and Constitution”
• SELECT “Statutes” and SCROLL TO TITLE 12 AND NAVIGATE TO 12:3
• THEN NAVIGATE TO TITLE 13:1B, ETC
RIPARIAN STATUTES

http://www.njleg.state.nj.us
Tideland licenses are short term rental agreements from the State of New Jersey for use of currently flowed tidelands. Licenses must be procured for the following uses:

- Fixed structures (i.e. docks, piers, mooring piles, floating docks, boat lifts, riprap, etc) constructed on currently flowed tidelands
- Bulkhead extensions that exceed or will exceed the mean high water line (as formerly flowed tidelands, bulkhead extensions may be purchased from the State if desired; however, they must be rented via a valid License until a Riparian Grant is delivered.)
- Marina slips (defined as five or more rented boat slips)
- Yacht and Boat Club structures
- Dredging within state-owned tidal water
- Utilities or utility-related structures (i.e. pipes, cable lines) that cross over or under state-owned tidelands
- Bridge construction/maintenance over state-owned tidelands

To view the instructions/application for applying for a License, please click here.
In the Beginning…

• Tidelands, or riparian lands, are intimately connected with the Public Trust Doctrine, having roots that extend all the way back to the 6th century Roman Empire and the reign of Emperor Justinian, between 529 and 534 A.D.

• In codifying civil law in the Institutes of Justinian, he declared: “The seashore is owned by everyone, and no one.” This set the stage for distinguishing between public and private property ownership.

Revolution!

• Since the King controlled, for the good of the realm, all public trust / tidal lands, private citizens had to petition the King for permission to develop or use riparian lands for their own private purposes.

• After the Revolutionary War, the State takes the place of the King as custodian and steward of public trust lands.
Early Days

• The earliest riparian grants were approved by the State Legislature, in a largely un-systematic manner.

• The earliest grant on record was on November 22, 1802, issued to Nathaniel Budd, for purposes of building a ferry dock near what is now Jersey City.

The Wharf Act of 1851

• In 1851, the Act, in simple terms, vested an upland owner the express right to ”...build docks or wharves upon the shore, in front of his lands, and in any other way to improve the same and, when so built upon or improved, to appropriate the same to his own exclusive use.”
The Wharf Act Cont’d

• The 1851 Wharf Act resulted in large-scale filling in of tidal marshes and flats, and saw extensive construction of wharves and piers, largely in the New York Bay and Hudson River areas.

Repeal!

• Consequently, in 1869, a repeal of the Wharf Act was enacted that was limited to the New York Bay, Hudson River and Kill Van Kull areas.
Repeal!

• It was not until 1891, some 40 years after it became law, that the Wharf Act in the rest of the State was repealed and a ban established on any filling below the mean high water line unless a grant or lease was approved by the riparian land commissioners.
• Today’s Tidelands Resource Council fulfills that role today.

TRC Cont’d…

• Legislation in 1864 established a Board of Riparian Commissioners, who, in the General Riparian Act of 1869 were vested with the full authority to issue grants and leases for tidelands in an organized fashion, using much the same systems we use today, with the very recent exception of no longer requiring the approval of the Governor.
TRC Cont’d

• In its existing form, the Tidelands Resource Council is a 12 member body, appointed by the Governor with the advice and consent of the Legislature.

The Fund for the Support of Public Schools

• Established in 1817
• N.J. Constitution of 1844, Art. IV, sec. 7, para 6
• N.J.S.A. 18A-56-1
• N. J. Constitution (1947), Art. VIII, sec. 4, para 2
TIDELANDS CLAIMS MAPS

• *O’Neill v. State Highway Department* 50 NJ 307, 323(1967)
• Results in State wide effort to map all State-claimed tide-flowed lands.

TIDELANDS MAP COVERAGE

Tidelands Are Found in 17 Counties

Except Hunterdon, Morris, Sussex and Warren
The second annual Dash for the Trash, a large-scale, volunteer cleanup of sections of the Delaware River and Bay as well as the Raritan River Basin will continue through March 16. DEP’s New Jersey Waterways Ambassadors Program, in partnership with the New Jersey Clean Communities Council, has organized cleanups in 16 different towns along the two waterways.

Read the DEP news release.

News Releases

March 18, 2013
State Parks Make Great Strides Towards Post-Sandy Recovery, Liberty State Park, New Jersey’s First Public Open Space, Christie Administration Hires Unemployed Workers to Aid the Parks Agency’s Effort

March 15, 2013
DEP, Contractors’ Workers Arrested in Illegal Salamander Trafficking Operation in Atlantic County

March 15, 2013
Christie Administration Celebrates 50 Years of Trout Production at the West Point Trout Hatchery

March 14, 2013
New Jersey Declares Self-Reliant From Devastating Tree-Killing Pests

More News Releases

Want to receive NJDEP News Releases via e-mail?
Enter your e-mail address and we’ll do the rest!

NJ-GeoWeb

Welcome to NJ-GeoWeb
NJDEP’s “next generation” environmental mapping tool

Updated: Feb 2012

With NJ-GeoWeb users can view and query the best of the NJDEP’s Geographic Information System (GIS) data. NJ-GeoWeb users can link to reports from DEP Data Miner to access up to the minute environmental data related to selected projects appearing on the map.

There are profiles for Ambient Water Monitoring projects, Barnegat Bay, Geology, Site Remediation (RPS), Tidelands, Well Drilling, and a one can fit all profile called GeoWeb. The GeoWeb profile was developed to allow users to explore a location or area of interest and view and query a great number of mapped environmental layers. It has NJDEP’s greatest hits that are currently included in i-MagNJ DEP.

NOTE: If you are using IE 8.x or IE 9.x, run the application in Compatibility Mode by making the following changes:
Under Tools > Compatibility View Settings, in the “Add this website” text box, enter state.nj.us then click “Add” then “Close”. This should allow the application to work properly.

NJDEP won a Silver award for GeoWeb at the 2009 ESRI International User Conference.
View details.
BEYOND STATE TIDELANDS CLAIMS MAPS--THE MAPS DON’T TELL THE WHOLE STORY  
(The Doctrine of Equal Compensation)

• NATURAL EVENTS CAN CAUSE CHANGES IN OWNERSHIP

• EROSION - TITLE TO LANDS THAT SLOWLY ERODE SHIFTS TO THE STATE

Downe Twp. 1977 Basephoto
This shore line has eroded 761 feet from the claim line.
BEYOND STATE TIDELANDS CLAIMS
MAPS--THE MAPS DON’T TELL THE
WHOLE STORY

• NATURAL EVENTS CAN CAUSE
CHANGES IN OWNERSHIP

• ACCRETION - TITLE TO LANDS
THAT SLOWLY BUILD UP SHIFTS
TO THE UPLAND OWNER
Wildwood Crest has gained 635 feet of beach front.
BEYOND STATE TIDELANDS CLAIMS MAPS--THE MAPS DON’T TELL THE WHOLE STORY

• CLAIMS REVEALED BY DEED DESCRIPTIONS
WHAT WE ISSUE

• GRANTS: SALE OF STATE TITLE INTEREST OF FORMERLY TIDE-FLOWED AREAS
• LICENSES: RENTAL AGREEMENT FOR PRESENTLY TIDE-FLOWED AREAS
• LEASES: LONG TERM RENTAL AGREEMENT - HOMES OVER WATER

WHAT WE ISSUE (cont.)

• STATEMENTS OF NO INTEREST
• NOTICES OF ACTION (LIENS)
• ALL INSTRUMENTS MUST BE APPROVED BY THE TIDELANDS RESOURCE COUNCIL
LICENSES

• 10 YEAR TERM WITH ANNUAL FEE
• For 2013, $0.53/s.f. FORMULA USED TO DETERMINE ANNUAL FEE, BUT MINIMUM FEE IS $100.00. FEES INCREASE 2.5% EACH YEAR
• PRIOR USE AND OCCUPANCY
• ASSIGNING LICENSES

LICENSES

• MOST COMMON FOR RESIDENTIAL WATERFRONT PROPERTIES WITH DOCKS AND BULKHEADS ON NATURAL WATERWAYS

• LAGOONS: REQUIRED FOR AREAS INTERSECTED BY FORMER TIDAL STREAMS
LICENSES

GRANTS

- MOST COMMONLY A SALE OF FORMERLY TIDE-FLOWED LANDS TO CLEAR RECORD TITLE
- STATE REQUIRED TO RECEIVE FAIR MARKET VALUE
- NO GRANDFATHERING
GRANTS

APPLICATION REQUIREMENTS

• MUST BE UPLAND PROPERTY OWNER TO RECEIVE GRANT
• NARRATIVE APPRAISAL
• SURVEY, RECORDED DEED, AGENT’S AUTHORIZATION FORM
Discounts

• The Council routinely considers offering two distinct types of discounts off the Grant consideration; Litigation Risk or Good Faith. Currently, both types of discount are offered at 75%

Discounts Cont’d

• Review staff will recommend the Council consider a discount if it cannot find evidence of remnants of the claim area on its earliest available photography
2002 imagery showing a former claim derived from an 1880 source.

1920 imagery, confirming the location and depiction of the stream claimed by the State, using its 1880 source. In this case, no Litigation Risk discount is offered.
STATEMENT OF NO INTEREST

- Formal, Recordable Declaration by the State that there are NO Tidelands Claims on the Subject Property
- Need one of 3 categories to qualify for an SNI
- $250.00 FEE PAID UP FRONT

NOTICE OF ACTION

- Acts like a lien

- Serves notice in any Title Search that there’s a problem

- NOA will be filed when:
  - License Payments are Delinquent
  - Failure to Submit Required Application Documents for Legalization
  - No response to Notice of Violation
THE END

Thanks for your kind attention!