

**From:** pearl hewett

**Sent:** Saturday, March 21, 2015 9:00 PM

**To:** zSMP

**Cc:** Lois Perry; Sue Forde; Karl Spees; Brian and Brooke; Steve Gray; Winborn, Mary Ellen; connie beauvais; harry bell; Sandy Collins; Judi Hangartner; Stephanie Noblin; Ed B; Keith Olson; McEntire, Jim; Chapman, Mike; Peach, Bill

**Subject:** SMP Public Trust Doctrine vs. Aquaculture

## **SMP Public Trust Doctrine vs. aquaculture**

**I made the comment on the The Public Trust Doctrine as a possible defense against aquaculture at a meeting of the citizens SMP Update committee. Comments made at those meetings were only captured in the summary of those meetings.**

**The following may be of interest to the Planning Commission and other affected citizens.**

**Pearl Rains Hewett**  
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### **The Public Trust Doctrine**

The Public Trust Doctrine is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. (Visit the [MSRC Web site](#) and search for the State Supreme Court case *Caminiti v. Boyle*, 107 Wn. 2d 662, 732 P.2d 989)

The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable water bodies below the ordinary high water mark.

**Protection of the trust is a duty of the State, and the Shoreline Management Act is one of the primary means by which that duty is carried out. The doctrine requires a careful evaluation of the public interest served by any action proposed. This requirement is fulfilled in major part by the planning and permitting requirements of the Shoreline Management Act.** (Court case: [MSRC Web site](#) and search for *Portage Bay v. Shorelines Hearings Bd.*, 92 Wn.2d 1, 593 P.2d 151)

Local governments should consider public trust doctrine concepts when developing comprehensive plans, development regulations and shoreline master programs. There are few "bright lines," however, as the Public Trust Doctrine is common law, not statutory law. **The extent of its applicability can only be determined by state court decisions.**

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[Public Trust Doctrine - Washington State Department of ...](#)

- [www.ecy.wa.gov](http://www.ecy.wa.gov) › ... › *Laws, Rules, and Cases*

The *Public Trust Doctrine* does not allow the public to trespass over privately ... The document below is a good introduction to the case law in *Washington State*.