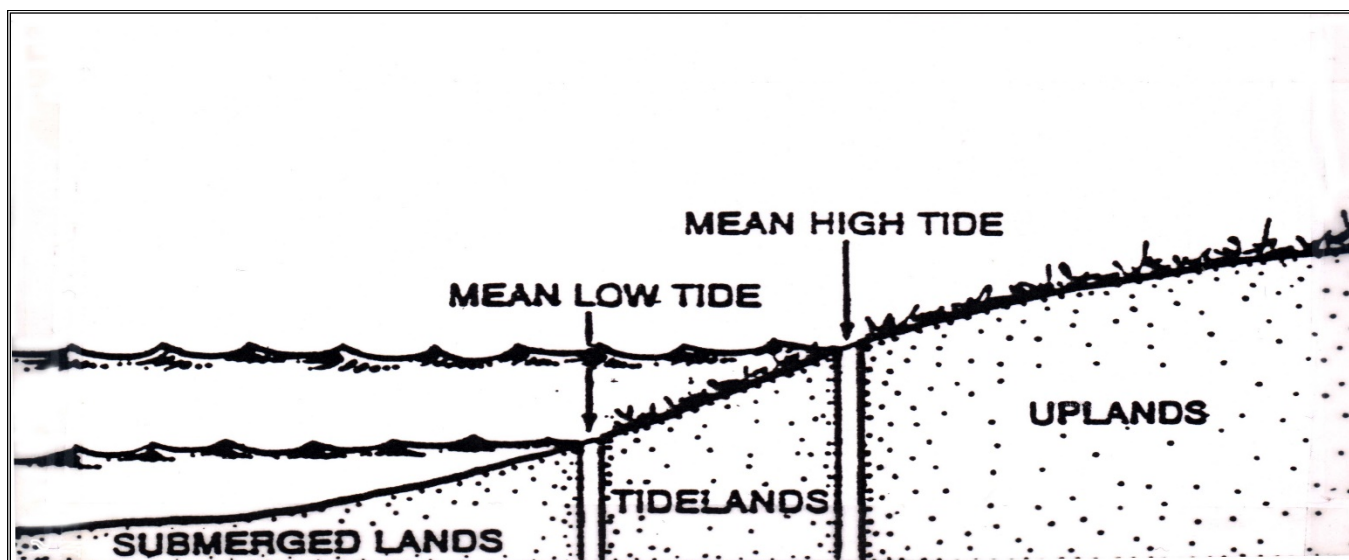




Fact Sheet: Tide and Submerged Lands

What are "tide and submerged" lands?

Tidelands include the land between mean (average) high and mean low tide. Submerged lands are seaward of mean low tide to three miles offshore. The tide and submerged lands include all land between the mean high tide line and three miles offshore of the mean low tideline.



Who owns tide and submerged lands in Alaska?

The State of Alaska owns most of the tide and submerged lands along its coastline. The Submerged Lands Act of May 22, 1953 states that all lands permanently or periodically covered by tidal waters up to, but not above, the line of mean high tide and seaward to a line three geographical miles distant from the coast is owned by the state.

Can the state sell or lease its tide and submerged land?

As a general rule, the State cannot sell tide and submerged land. However, certain cities and municipalities may acquire title to tide and submerged land. There are several programs under which a lease of state tidelands may be acquired.

Can I use state tide and submerged lands, even if the state doesn't own the uplands?

Yes, you can use state tide and submerged land, even if the uplands are not owned by the state. However, you must remember that you only have the right to use the land from mean high water seaward. You are also expected to respect the upland owner's rights and treat the land with care.

Does the federal government own tidelands adjacent to its conservation units, such as National Parks?

The question has been raised that the United States may own tidelands adjacent to certain federal withdrawals that exist prior to statehood. However, that question was answered on June 8, 1987 when the U.S. Supreme Court issued its decision in Utah v. United States. This decision established that federal land withdrawals made prior to statehood did not include land under navigable waters.

In that decision, the Supreme Court affirmed the longstanding policy that the federal government holds land under navigable waters for the ultimate benefit of a future state. In order for this not to be the case, congress would have to specifically include the land and clearly state that it intended that the state would not have title to it.

Tide and submerged lands were not included in any pre-statehood federal withdrawals within Alaska and there is no indication that Congress intended to take away the State of Alaska's title. The state therefore received title to all the tide and submerged lands at statehood.

Additionally, in the Alaska National Interest Lands Conservation Act, Congress did not take away the state's power to regulate state-owned submerged lands within or adjacent to federal conservation system units in Alaska. Many provisions in ANILCA recognize and respect the state's authority over state-owned land.

Where the uplands are within federal conservation units, the state has cooperated with federal land managers wherever possible. As a result, some special use restrictions may apply. Sometimes this cooperation is formally set out in a memorandum of understanding that discusses management issues and how they will be resolved.

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