

26th Annual International Submerged Lands Management Conference Applying the Public Trust Doctrine in Rhode Island

Speaker: Megan Higgins

Abstract: The Rhode Island State Constitution guarantees shoreline privileges that include, but are not limited to, fishing from the shore, collecting seaweed, leaving the shore to swim in the ocean and passing along the shore (Article I, Section 17). Pursuant to the Public Trust Doctrine, Rhode Island citizens have the right to pass along the shore. However, most of the public trust lands (including submerged lands) in the state are adjacent to private property. In order to take full advantage of the Public Trust Doctrine and its accompanying rights, one must be able to identify the intersection between private property and the public trust lands. In Rhode Island, that intersection lies at the mean high water line. The state holds title to what lies below the "line" in a proprietary capacity for the benefit of the public. The state also has a management interest in public trust lands. The RI General Assembly has charged the RI Coastal Resources Management Council (CRMC) with a continuing duty to establish a baseline of resources and their use and undertake a planning and management process in prescribed phases to: identify coastal resources; evaluate resources in terms of quantity, quality and use; determine current and potential resource problems; and formulate management plans and programs. (R.I.G.L. ° 46-23-6 A(2)). When a use is proposed which may impact Public Trust resources, the enabling legislation for the CRMC requires that a variety of considerations be made such as the need and demand for various activities and their impact upon ecological systems; the degree of compatibility of various activities; the capacity of coastal resources to support various activities; water quality standards; plans, studies, surveys, and inventories prepared by other public/private sources; contiguous land uses and transportation facilities; and whenever possible consistency with the state guide plan. (R.I.G.L. ° 46-23-6A(4)). In an effort to balance private and public uses of public trust lands, adaptive management is necessary as users compete for access.

Speaker Information: Megan Higgins serves as Research Counsel for both the Rhode Island Sea Grant Legal Program and the Marine Affairs Institute at Roger Williams University School of Law. She manages the outreach arm of the Program including oversight of law student and graduate student research and analysis and contributing to the research, publication, and educational roles of the Program as appropriate. Megan has been active in ocean and coastal policy and research in New England for the last 6 years and is an expert in coastal zone law, public trust doctrine, public access and environmental law. Most recently, Megan served as a Coastal Policy Analyst for the RI Coastal Resources Management Council where she oversaw RI's Coastal and Estuarine Habitat Restoration Program and Trust Fund. Megan has her B.A. in Environmental Studies from the University of Vermont, her J.D. from Roger Williams University School of Law, and M.M.A. from the University of Rhode Island.