

## **26<sup>th</sup> Annual International Submerged Lands Management Conference**

### **What is the current Status of the Public Trust Doctrine in Virginia?**

**Speaker:** Carl Josephson

Abstract: This presentation will trace the apparent demise and the resurrection of the public trust doctrine in Virginia from a 1932 Virginia Supreme Court decision that effectively rejected the doctrine in Virginia, through the 1970 revision of the Virginia Constitution which included a Conservation Article and to 1999 legislation requiring that the Virginia Marine Resources Commission's habitat decisions be consistent with the public trust doctrine "as defined by the common law of the Commonwealth adopted pursuant to [Virginia Code] § 1-200." Discussion of the subsequent decisions in two Virginia appellate cases along with a third trial-level case, presently on appeal, will demonstrate that judicial clarification is still needed with respect to several important issues concerning the nature of the public trust doctrine in Virginia in general, and as specifically applicable to Virginia Marine Resource Commission habitat decisions in particular.

**Speaker Information:** Mr. Josephson is a Senior Assistant Attorney General and has served in the Environmental Section of the Virginia Attorney General's office for nearly 15 years. He has served as agency counsel, providing advice and legal representation, for numerous State environmental agencies during that time. His present clients include the State Air Pollution Control Board and the Department of Environmental Quality staff of that Board. He has been agency counsel for the Virginia Marine Resources Commission since 1999. A 1965 graduate of the U.S. Coast Guard Academy, he obtained his law degree from George Washington University in 1972 and an M.B.A. from the Florida Institute of Technology in 1990. Prior to working for the Attorney General's office, he served in the U.S. Coast Guard in operational, academic, project management and legal billets for 27 years.