

**Administrative Rules Committee  
March 9, 2010**

**Beds of Navigable Waters (Sovereign Lands) – State Title**

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Asst. Attorney General

1. Ancient Roman and English Common Law  
Tidelands - Title in the Crown
2. American Colonies  
Title in the Crown
3. American Revolution  
Crown's title passes to the states
4. New states  
Enter Union on an equal footing with Original Thirteen
5. Topography of continental United States  
Concept expands from tidelands to navigable waters
6. Navigability defined  
Waters that, at statehood, "were used or were susceptible of being used in their ordinary condition as highways for commerce over which trade and travel were or may have been conducted in the customary modes of trade on water"
7. State title confirmed  
Federal case law and Federal statute  
N.D. case law
8. Geographic scope of title  
Bank to bank - Ordinary high watermark to ordinary high watermark
9. Navigability applied  
Watermark - Agricultural usefulness test - Ambulatory title
10. Sovereign lands management  
No active management → Industrial Commission/Bank of North Dakota →  
Land Department → Land Department/State Engineer