

COMMISSIONER'S ORDER

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Doug Sutherland
Commissioner of Public Lands
Olympia, Washington 98504

WITHDRAWAL AND DESIGNATION ORDER FOR THE FIDALGO BAY ENVIRONMENTAL AQUATIC RESERVE

The State of Washington is owner of certain aquatic lands in Skagit County known as the Fidalgo Bay site consisting of tidelands and bedlands from the southern end of Fidalgo Bay north to a line drawn east and west from Crandall spit, hereafter described. Under statutory mandates, Washington's Department of Natural Resources (Department) manages state-owned aquatic lands and has found the following attributes that make the Fidalgo Bay site unique and critical for conservation:

Fidalgo Bay contains diverse physical habitats that include tidal flats, salt marshes, sand and gravel beaches, and expansive native eelgrass beds.

Fidalgo Bay serves as an important rearing area for juvenile forage fish and salmon and contains documented forage fish spawning beaches and salmon migratory corridors.

The connectivity of the reserve area to other nearby protected sites, including the Cypress Island Aquatic Reserve, Padilla Bay National Estuarine Research Reserve, and Hat Island Natural Resources Conservation Area, provide a network of critically important habitats for migratory shorebirds and waterfowl, bald eagle, peregrine falcon, salmon and forage fish.

Numerous opportunities for habitat restoration and enhancement exist within Fidalgo Bay and a diverse array of partner agencies and organizations are working cooperatively to improve the habitat in and around Fidalgo Bay.

Much of the tidelands in Fidalgo Bay are held in a conservation easement by the Skagit Land Trust, which limits future development on these properties. The management of Fidalgo Bay as a state aquatic reserve complements the requirements of the easement. The site will be managed solely for preservation of habitat for fish and wildlife uses and limited human uses.

A primary goal for creating the Fidalgo Bay Aquatic Reserve is the preservation of critical forage fish spawning habitat. Due to local losses in eelgrass and forage fish spawning sediment, and the uncertainty regarding factors limiting the Fidalgo Bay herring population, the protection of forage fish spawning habitat is a critical resource issue in Fidalgo Bay and statewide.

And

The Department is responsible for managing state-owned aquatic lands in a manner that includes:

Ensuring environmental protection as a management objective for state-owned aquatic lands (RCW 79.105.030(3)), and

Consideration of natural values of state-owned aquatic lands as wildlife habitat, natural area preserves, representative ecosystems or spawning areas prior to the Department issuing any lease or authorizing any changes in use (RCW 79.105.210(3)), and

Withholding from leasing lands which the Department finds to have significant natural values (RCW 79.105.210(3)).

Therefore, according to the powers vested in the office of Commissioner of Public Lands (RCW 79.105.030(3), RCW 79.10.210, and WAC 332-30-151), I, Doug Sutherland, hereby order and direct that Washington State tidelands and bedlands described below are withdrawn from the general leasing program and established as a state Environmental Aquatic Reserve.

LEGAL DESCRIPTION

That portion of the harbor area, waterways and beds of navigable water in Fidalgo Bay that are owned by the State of Washington in front of adjacent to or abutting Section 5, Township 34 North, Range 2 East, W.M. and in front of adjacent to or abutting Sections 29, 30, and 32 Township 35 North, Range 2 East, W.M. and further described as follows:

That portion of Fidalgo Bay lying southerly of a line beginning at the northeast corner of Tract No. 10 as shown on Plate 11 of the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893 and said line extended easterly to terminate at the waterward terminus of the line between government lots 2 and 3 of Section 29, Township 35 North, Range 2 East, W.M.;

EXCEPTING THEREFROM, that portion of the southerly end of the West Arm of Fidalgo Waterway which was vacated by Waterway Vacation No. 101 according to the Commissioner's Order dated April 29, 1959 for Primary State Highway No. 1 (State Route 20);

ALSO EXCEPTING THEREFROM, that portion of the southerly end of the East Arm of Fidalgo Waterway granted to the Department of Highways as shown on State Road Plat No. 941 dated January 18, 1961 for Primary State Highway No. 1 (State Route 20);

ALSO EXCEPTING THEREFROM, that 100 foot right of way for railroad purposes across said Fidalgo Waterway granted to the Seattle and Montana Railroad Company by decree filed March 2, 1904 according to Condemnation file No. A26;

TOGETHER WITH, those first class tidelands conveyed to the State of Washington according to the Statuary Warranty deed recorded on December 20, 1999 recorded under Auditor's File No. 199912200133, Skagit County Auditor's records and further described as follows:

Tracts 4, 5, 6, 7, 8, 9, and 10 of Plate 13; Tracts 8, 9, 10, 11, 12, 13, 14, and 15 of Plate 12; that portion of Tracts 16 and 17 of said Plate 12 and lying southerly of the Seattle and Montana Railroad Company by decree filed March 2, 1904 according to Condemnation file No. A26; said tracts and plates are according to the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893;

EXCEPTING THEREFROM; that portion of said first class tidelands, if any, conveyed to the State of Washington for Primary State Highway No. 1, Jet. S.S.H. No. 1-D (State Route 20) by deed recorded October 15, 1956 under Skagit County Auditor's file No. 542873; by deed recorded January 3, 1958 under Skagit County Auditor's file No. 560284, and by deed recorded February 7, 1961 under Skagit County Auditor's file No. 603915;

ALSO EXCEPTING THEREFROM, that 100 foot right of way for railroad purposes across said first class tidelands granted to the Seattle and Montana Railroad Company by decree filed March 2, 1904 according to Condemnation file No. A26;

TOGETHER WITH, those second class tidelands conveyed to the State of Washington according to the Statuary Warranty deed recorded on December 20, 1999 recorded under Auditor's File No. 199912200133, Skagit County Auditor's records and further described as follows:

All tide lands of the second class lying between the line of mean high tide and the line of extreme low tide, situate in front of and adjacent to, or abutting government lots 5 and 6, Section 32, Township 35 North, Range 2 East, W.M. and government lot 4, Section 4, Township 34 North, Range 2 East, W.M.;

ALSO TOGETHER WITH, tidelands of the second class, conveyed to the State of Washington according to the Statuary Warranty deed recorded on October 26, 2000 recorded under Auditor's File No. 200010260029, Skagit County Auditor's records and further described as follows:

Tidelands of the second class, extending from mean high tide to extreme low tide as conveyed by the State of Washington in deeds recorded in Volume 88 of Deeds, page 513 on May 21, 1912 and in Volume 102 of Deeds, page 550 on April 25, 1916 of Skagit County Auditor records, situate in front of, adjacent to, or abutting upon that portion of the government meander line described as follows:

Beginning at the northeast corner of Government Lot 1, Section 5, Township 34 North, Range 2 East, W.M.; thence South 28° West, 7.50 chains (495.00 feet); thence South 47° West, 17.50 chains (1155.00 feet) to the terminal point of this description.

Except that portion, if any, lying westerly of the easterly line of "East Arm Fidalgo Waterway" as shown on Plate No. 13, "Tide and Shore Lands in Section 5, Township 34 North, Range 2 East, W.M., Anacortes Harbor" as per the recorded plat thereof on file in the office of the Commissioner of Public lands, Olympia, WA.

ALSO Except that portion conveyed to the State of Washington for Primary State Highway No. 1, Jct. S.S.H. No. 1-D (State Route 20) by deed recorded January 10, 1961 under Skagit County Auditor's file No. 602917.

TOGETHER WITH, those bedlands, if any, lying westerly of the line of extreme low tide fronting and abutting the said second class tidelands situated in front of and adjacent to, or abutting government lots 5 and 6, Section 32, Township 35 North, Range 2 East, W.M. and government lot 4, Section 4, Township 34 North, Range 2 East, W.M.; and lying easterly of said east line of the East Arm of the Fidalgo Waterway;

TOGETHER WITH, those bedlands, if any, lying westerly of the line of extreme low tide fronting and abutting the second class tidelands situated in front of and adjacent to, or abutting government lot 7, Section 32, Township 35 North, Range 2 East, W.M. and lying easterly of the east line of said Fidalgo Waterway and the said east line of the East Arm of Fidalgo Waterway

EXCEPTING THEREFROM, that 100 foot right of way for railroad purposes across said bedlands, if any granted to the Seattle and Montana Railroad Company by decree filed March 2, 1904 according to Condemnation file No. A26;

TOGETHER WITH, second class tidelands and bedlands, if any, lying northerly of the north lateral sideline of said second class tidelands in front of and adjacent to, or abutting government lot 7, Township 35 North, Range 2 East, W.M. and lying southerly of the south line of Tract No. 2 as shown on Plate 12 of the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893;

TOGETHER WITH, those bedlands, if any, lying westerly of the line of extreme low tide fronting and abutting the second class tidelands situated in front of and adjacent to, or abutting government lots 2, 3 and 4, Section 29, Township 35 North, Range 2 East, W.M. and the north 10.19 lineal chains along the meander line of government lot 8, Section 32, Township 35 North, Range 2 East, W.M. and lying easterly of the inner harbor line of the easterly most harbor area within Fidalgo Bay as shown on the Map of Anacortes Harbor as filed by the Harbor Line Commission dated 1892;

EXCEPTING THEREFROM; those bedlands, if any, of said Tract 2 as shown on Plate 12 of the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893 as conveyed by the State of Washington according to the deed dated

April 17, 1908 within Volume 8 of Tide Land Deeds, page 370 on file in the office of the Commissioner of Public Lands;

ALSO EXCEPTING THEREFROM, those bedlands, if any, of Fidalgo Bay lying southerly of said line beginning at the northeast corner of Tract No. 10 as shown on Plate 11 of the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893 and said line extended easterly to terminate at the meander corner between government lots 2 and 3 of Section 29, Township 35 North, Range 2 East, W.M.;

ALSO EXCEPTING THEREFROM; tidelands of the first class of said Tract 2 as shown on Plate 12 of the Tide and Shore Lands of Anacortes Harbor as filed by the Tideland Appraisers dated May 1, 1893 as conveyed by the State of Washington according to the deed dated April 17, 1908 within Volume 8 of Tide Land Deeds, page 370 on file in the office of the Commissioner of Public Lands;

TOGETHER WITH, parcels A, B, and C described in Statutory Warranty deed recorded October 27, 2006 Skagit County Auditor's file number 200610270168, described as follows:

PARCEL "A":

Tidelands of the second class lying within Tidelands shown as first class as Tract 2, "PLATE NO. 12, TIDE AND SHORELANDS OF SECTIONS 31 AND 32, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M., ANACORTES HARBOR", as shown on the official map of said Plate 12, in the office of the State Land Commissioner at Olympia, Washington.

TOGETHER WITH tidelands of the second class, if any, lying between the line of extreme low tide and the Westerly line of said Tract 2.

PARCEL "B":

Tidelands of the second class lying within Tidelands shown as first class as Tracts 5 and 6, "PLATE NO. 14, TIDE AND SHORELANDS OF SECTION 29, TOWNSHIP 35 NORTH, RANGE 2 EAST W.M., ANACORTES HARBOR", as shown on the official map of said Plate 14, in the office of the State Land Commissioner at Olympia, Washington.

TOGETHER WITH tidelands of the second class, if any, lying between the line of extreme low tide and the Westerly line of said Tract 6.

PARCEL "C":

That portion of first class tidelands shown as Tracts 16, 17 and 18, "PLATE NO. 12, ANACORTES TIDE AND SHORE LANDS", according to the map thereof on file in the office of the State Land Commissioner at Olympia, Washington, embraced within the following described boundaries, to-wit:

Beginning at a point on the North line of Tract 18, "PLATE NO. 12, ANACORTES TIDE AND SHORE LANDS", 650.8 feet South and 2,057.1 feet East of the section corner common to Sections 29, 30, 31 and 32, Township 35 North, Range 2 East, W.M.; thence East along said North line of Tract 18, 600 feet, more or less, to the East line of said Tract 18; thence Southerly along the Easterly lines of said Tract 18, 17 and 16, as follows, to-wit: South 28°36' East 790 feet; thence South 2°57' West 433.6 feet; thence South 14°22' West 10 feet, more or less, to the North line of the Great Northern Railway Company right-of-way; thence Northwesterly along said North line of the Great Northern Railway right-of-way 1,040 feet, more or less, to a point due South of the point of beginning; thence North to the point of beginning.

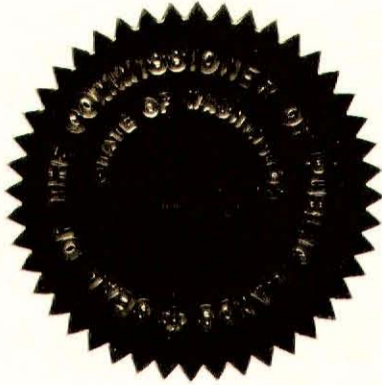
All of the above-described lands are situated in Skagit County, Washington.

And further, it is

ORDERED AND DIRECTED that the records of the Washington State Department of Natural Resources shall note that the property hereafter described possesses unique and significant natural values and shall be managed according to the Final Fidalgo Bay Aquatic Reserve Management Plan (April 29th, 2008) for 90-years from the date of signature of this Commissioner's Order.

This order hereby rescinds the Commissioner's Order concerning the tidelands and bedlands of Fidalgo Bay, dated May 26th, 2000.

Dated this 29th day of April, 2008.



STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Doug Sutherland
Doug Sutherland
Commissioner of Public Lands

Betty Ann Morgan
Witness

Thomas J. [Signature]
Witness

H. Dean Maxwell
Witness

William L. Short
Severino Joe Fuller