



# Determination of Ownership Boundaries along Seashores (continued)

## Circa 1965



At the present time, the limit of demarcation between the riparian owner and the state can be in any one of several locations depending upon the general laws in force at the time of the alienation from the sovereign to the individual. These locations are:

1. Mean high water line (most States)
2. Ordinary low water line
3. Mean low water line
4. Mean lower low water line
5. One hundred rods (1650 feet) seaward of the mean high water line (Massachusetts, New Hampshire and Maine)
6. Mean Higher high water line (In Texas adjoining Spanish and Mexican land grants)
7. Meander lines (Swamp lands only)

In the State of Texas many Spanish and Mexican grants were made. Spanish law at the time of these grants was said to reserve in the sovereign all lands to the highest winter wave. As a practical matter the Texas Supreme Court interpreted this as “the mean of the higher high tides (See Reference #4). Thus, lands granted to private parties by the Spanish or Mexican governments within Texas did not extend seaward as far as those which were granted by the State of Texas. To my knowledge this rule has not been applied in other rancho land grant States such as parts of Alabama, Florida and California.

The early swamp land act of the United States has created difficult boundary problems for those resurveying swamp lands. In

the early history of the United States, the Federal Government passed a statute law whereby the various States could apply for certain swamp and overflow lands. After these lands were acquired by the States from the Federal Government, the States could dispose of them, and they often did. Some of these so-called swamp lands adjoined the ocean. Theoretically a swamp has no definite water line limit; it is an area subject to flooding part of the year and dryness at

lost to the riparian owner. Often accretion or erosion is caused by a man made barrier. For example, if a rock jetty is built from the shore into the ocean and the offshore currents are southerly, sand is apt to deposit northerly of the jetty. In Mission Beach, California, about 100 acres of sand were added to the shore because of just such a cause. According to the Federal rule of law, accretions belong to the riparian owner regardless of the cause; according to the California rule of law, accre-

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other times. It cannot be said that a swamp has a definite water line such as a river or ocean shore; the land may be merely a bog without a standing surface pond or lake. Most States have ruled that lands acquired via the swamp lands act are not riparian and ownership is limited to the meander lines. Many of the California coastal lagoons that are permanently cut off from the ocean and were acquired via the swamp land route come under this rule (Important: The lands must have been granted to the State in compliance with the swamp lands act).

Accretion laws add confusion to the upland owners' limit of ownership. Soil attaching itself to the riparian owners land by slow and imperceptible means belongs to the riparian owner. Land gradually eroded is

caused by man-made barriers belong to the State. (The Federal rule of law does not apply to fills or sudden causes.)

According to the court rules of law, *mean high tide line* (also *ordinary high tide line*) is the average of all higher tides *at the spot being located*. This is a simple definition but one that is exceedingly expensive to put into effect. Most surveyors are prone to say, “I will take the average elevation for a mean high tide line as published by the USC&GS and use this value to determine a level tide line along the shore.” This can be right in a few selected locations, but more often it is wrong. ■

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