

University of Portland

Pilot Scholars

History Undergraduate Publications and Presentations

History

12-2020

Private Rights Versus Public Access: A Battle Over Who has Control of the Beaches

Richard` Ressa

Follow this and additional works at: https://pilotscholars.up.edu/hst_studpubs



Part of the [Recreation, Parks and Tourism Administration Commons](#), and the [United States History Commons](#)

Citation: Pilot Scholars Version (Modified MLA Style)

Ressa, Richard`, "Private Rights Versus Public Access: A Battle Over Who has Control of the Beaches" (2020). *History Undergraduate Publications and Presentations*. 26.

https://pilotscholars.up.edu/hst_studpubs/26

This Thesis is brought to you for free and open access by the History at Pilot Scholars. It has been accepted for inclusion in History Undergraduate Publications and Presentations by an authorized administrator of Pilot Scholars. For more information, please contact library@up.edu.

Private Rights Versus Public Access:
A Battle Over Who has Control of the Beaches

By
Richard Ressa

Submitted in partial fulfillment of the requirements for the degree of
Bachelor of Arts in History
University of Portland
December 2020

Introduction

It is a beautiful evening with a warm summer breeze come from the ocean. The sun is setting over the water. The day was long and beautiful. The sand felt warm and the water felt cool. Whether you are the kind of person to run around, hitting a ball back and forth with some friends or sitting under the sun with a nice towel and a cool glass of lemonade, the beach is open and able to be enjoyed by all. This is the experience I have had growing up on the West Coast. In Newport Beach, California, depending on where one goes, the beaches can be quite crowded with people and finding a spot to sit down and relax can be quite difficult. The water is warm though, and the sand is soft, but depending on when you are going, it can be quite hot too! In Cannon Beach, Oregon, the beach is long and wide in either direction. The town itself is not too big and it is not too difficult to find a place to sit and relax. The water is cold though and although people do run in and play around, it is not as enjoyable as the warm water is in Newport Beach, California. Both locations share something important. They are both available to the public. Anyone can come from around the world and enjoy the feel of the sand and the beauty of the coast. Moody Beach, Maine is a very different location compared to Cannon Beach and Newport Beach. Moody Beach is a quiet place that does not see any tourists. No one can use that beach for recreation except for the people that live on the Beach. Maine does not have a lot of coastline that has good beaches for recreation and a significant portion of is closed to the public unless someone is fishing, fowling or navigating. The public's ability to access beaches in Maine are limited. Private rights over the intertidal and upland area of beaches are stronger and strengthened by previous court cases and common law practices.

Most modern public access rights to beaches were decided since 1960 with legislation and court rulings favoring the public access or private rights. This paper is going to investigate the battle between public access and private rights to beaches in certain locations around the United States. The significance of public access to beaches is important not only for the public to be able to access important location for recreation, but also because beaches are an area where the rich, poor, tourist, local, young, and old can all enjoy, and it is important to keep beaches open to public access. Oregon and Washington both allow the public access all of the beach from the low tide mark to the vegetation on the end of the beach. California and Florida allow the public to enjoy the intertidal area between low and high tide. Maine and Virginia allow private owners and firms to own all the land up to the low tide mark so the public cannot access any of the beach except for fishing, fowling and navigation. The key piece of information to understand is how each of these states have determined to have public access or private rights be stronger in each one. The battle for public access to beaches is important in understanding the conflict between private owners aim to limit access for a price and the ability of the everyone to enjoy a beautiful resource equally.

East Coast

It is a beautiful summer day. The sun is shining, and the waves are crashing quietly along the shore. As you continue your walk down the beach, you notice fewer and fewer people and then you come across a sign. PRIVATE PROPERTY: TURN BACK NOW. This is different from the beaches in the Northwest, but you do come across it every now and then with people challenging the public access to beaches. This is one thing that is different this time, however, the beach you are walking on is private property and the public no rights to walk along it. This is the case for Florida, Maine, and Virginia.

The East Coast has treated public access to beaches in a different way compared to the West Coast. There has been a different attitude towards the beaches along the East Coast in keeping the area privatized. Each East Coast State deals with private and public beaches a little differently, but for the most part, a significant portion of the coast is held in private hands and the public is not allowed or supposed to be able to access those lands. Legally speaking, the private beaches are allowed to be fenced and only people with permission are allowed on the beaches. The focus of this next part of this paper will be on Florida, Maine, and Virginia. Each of these protect private property owner, but they do each have different ways that they protect the laws with different exceptions for the public. Florida, at the time of writing this, has had a lot of recent controversy over a bill strengthening private ownership of beaches (House Bill 631).¹

Florida

Unlike most East Coast States, Florida started off under Spanish control. Florida was a territory under the Spanish Empire from 1513-1763, then the British Rule from 1763-1783, back to Spanish from 1783 to 1821, then to the United States from 1822 onward with becoming a state in 1845.² Even though Florida was originally under Spanish control, most of its legal system is based off of Common Law which the United Kingdom followed and the United States expanded on. One common law principal that the Florida uses in the battle between private and public rights to beaches is a Customary Use Ordinance. Customary Use Ordinances are local ordinances that usually recognize, regular and protect public access to public beaches. The Supreme Court of Florida stated, “No Part of Florida is more exclusively hers, nor more properly utilized by her

¹ Flournoy, Alyson C., Thomas T. Ankersen, and Sasha Alvarenga. "Recreational Rights to the Dry Sand Beach in Florida: Property, Custom and Controversy." UF Law Scholarship Repository. January 2019. Accessed November 22, 2020. <https://scholarship.law.ufl.edu/facultypub/831/> p. 21

² "Historical Data Concerning Florida" Know Florida, Issued by the State Department of Agriculture, Tallahassee, Circa 1937, p. 29-31.

people than her beaches. And the right of the public of access to, and the enjoyment of, Florida's oceans and beaches has long been recognized by this Court."³ However, private ownership of Florida's beaches are still a part of the State with a major decision in 1974 in case of City of Daytona Beach v Tona-Rama, Inc. The Court rules:

The beaches of Florida are such a character as to use and potential development as to require separate consideration from other lands with respect to the elements and consequences of title. The sandy portion of beaches is of no use for farming, grazing, timber production or residency – the traditional uses of land – but has served as a throughfare and haven for fishermen and bathers, as well as a place of recreation for the public. The interest and rights of the public to the full of the beaches should be protected.⁴

This was significant for public rights and access to beaches in Florida. This ruling defined public use and protected upland that was traditional used by the public, but also protected private ownership with more regulation on what was considered private and how it was to be treated. This did not have an effect on land that was already privately owned and was clearly labeled as such.

City of Daytona Beach v Tona-Rama was between McMillian and Wright, Inc. which owned 15,300 square feet of upland property in Daytona Beach.⁵ The corporation decided to build and observation tower for its amusement pier. All of this was on its property. The Attorney General of Florida and Tona-Rama Inc. which owned the observation tower that was already built claimed that the new construction was infringing on public easement on the beach and sought to stop construction. The case found its way to the supreme court which found that the construction of the tower to be in line or “consistent” with the public use of the beach. The

³ Florida State University Law Review, City of Daytona Beach v. Tona-Rama, Inc., 294 So. 2d 73 (Fla. 1974), 2 Fla. St. U. L. Rev. 806 (1974) . <https://ir.law.fsu.edu/lr/vol2/iss4/7>

⁴ City of Daytona Beach v. Tona-Rama, Inc. 294, So 2d 77 (Fla. 1974).

⁵ Ibid.

Supreme Court of Florida then went on to apply customary rights and lay out rights of the public for recreational use in upland or dry sand areas.⁶ Although the court ruled in defense of the construction of an observation tower, the court protected and defined public access and easement.

This was the background for the recent controversy in 2018 with House Bill 631. It is important to note that the bill was not supposed to affect the beaches but due to how it was written it has caused alarm to the public. The bill states:

Possession of Real Property; Authorizes person with superior right to possession of real property to recover possession by ejectment; provides that person entitled to possession of real property has cause of action to regain possession from another person who obtained possession of real property by forcible entry, unlawful entry, or unlawful detainer; prohibits local government from enacting or enforcing ordinance or rule based on customary use; provides an exception; creates, revises, & repeals related procedural provisions.⁷

Some people were worried that the private beach property will become stronger and the parts of the beaches with public easement and customary use ordinance will be removed. The already privatized beaches would become more privatized and sectioned off from the public. There have been lawsuits filed in Florida, but nothing has been decided by the courts or repealed from a legislative perspective. It was unfortunate from a pro public access point of view as it strengthens the rights of private landowners while also limiting the public's ability to access beaches.

Florida does similar public rights for beach access as California does, but has stronger private rights and legislation for private property owners, especially for the upland part of the beaches. Florida reached it worked through this private versus public ownership of beach

⁶ Ibid.

⁷ CS/HB 631, Sess. Of 2018, <https://www.flsenate.gov/Session/Bill/2018/631/BillText/er/PDF>. p. 1

property through judicial review and the application of common law principles. This is different to how most of the West Coast states arrived at public versus private access which is one reason why these two areas arrived at different conclusion for public rights of beaches.

Maine

In the furthest northeast part of the United States lies Maine. Maine has a coastline of 3,500 miles, but only has less than 40 miles of publicly owned beaches!⁸ According to *Public Shoreline Access in Maine: A Citizen's Guide to Ocean and Coastal Law*, “if you ask a Mainer who lives on or near the coast about the ‘right to access’ the shoreline, and you’re likely to get a response that includes the phrase “fishing, fowling and navigation.”⁹ The reason for this vague response to because most of Maine’s coastline is privately owned. It is difficult for the public to reach the coast and use the land. One of the reasons for this development is that the land was bought and owned privately before the notion of public beaches became a topic discussed and argued over. The beaches are not all privately held, with towns or states owning a portion of the coastline, however, most of it is in private hands.¹⁰ Why would a Mainer answer that their right to access the shoreline would include fishing, fowling, and navigation? There are public trust rights for fishing fowling and navigating, but at the same time, the public trust rights inadvertently protect the private property which is why it is difficult to visit most of the coastline.¹¹

⁸ Duff, John; James, Liana; and LaBate, Victoria, *Public Shoreline Access in Maine: A Citizen's Guide to Coastal and Ocean Law (2016)*. Maine Sea Grant Publications. 118.

https://digitalcommons.library.umaine.edu/seagrant_pub/118, p. 2

⁹ Ibid 2

¹⁰ Ibid 2

¹¹ Ibid 2

The public trust rights make private property available to the public like in Washington, but they are more limited in Maine. The Public Trust Doctrine is a part of common law and the purpose is to ensure that the public can still have access for certain coastal activities. In the State of Maine, the Public Trust Doctrine allows people who rely on fishing, hunting, or navigating the shoreline to be able to use private property. It does not allow people to use the wet or dry part of the beaches for recreation. This sets up a very different public opinion and policy towards beaches. The shoreline is divided into three sections, below low tide, intertidal and upland. Below low tide is everything that is submerged and extends out three nautical miles (in most states).¹² This area is held in public trust which means that the state is responsible for managing this area. For the most part, this means that the public has unrestricted access to the use of the water and the sea floor (there are regulations, but those are outside the scope of this paper). This land can still be bought for aquaculture but the amount of spaced used does not infringe heavily on the public trust. The important areas that most people are concerned are the intertidal area and the upland area. The intertidal area is where public and private mix which is between the low and high tide. The public is allowed to pass through this land for the purpose of “fishing, fowling and navigating.” There are other activities that are allowed, and more are added at the discretion of Maine’s Supreme Court.¹³ The last area is the upland area. The upland area is where the sand is almost permanently dry because the waves do not reach that high, but it is still below the vegetation.¹⁴ The public is not allowed to use this area at all and is considered privately owned. The use of the land is up to the owner. The owner can “gift” the land to the public through an

¹² Duff, John; James, Liana; and LaBate, Victoria, *Public Shoreline Access in Maine: A Citizen’s Guide to Coastal and Ocean Law (1990)*. Maine Sea Grant Publications.

http://www.accessingthemaineoast.com/coastal_access_toolkit/E-MSG-90-3-1.pdf. p. 2

¹³ Ibid 5

¹⁴ Ibid 5

easement, right-of-way, lease or a license or people could acquire a “prescriptive easement.”¹⁵

The land is private, but the public may still use at the discretion of the private owner. If the upland area is owned by the government, it is then subject to government regulation, but is free to be used by the public.

The current precedent was set between private and public access of beaches for Maine in March of 1989 with the Moody Beach Case. The Moody Beach case, also known as *Bell v Town of Wells* (1989) was the conflict between public versus private rights to access the shoreline in Maine.¹⁶ This case set the limited rights for the intertidal zone and since the ruling, the tension over the issue of private versus public rights has increased. Before the Moody Beach case, Maine had a Colonial Ordinance that had extended private property rights to the low water mark with subject to public easement for fishing, fowling, and navigation (the only other state to have this was Massachusetts.)¹⁷ Moody Beach is roughly a mile-long beach that is in the Town of Wells, Maine. Along Moody Beach, roughly 100 homes sit along the beach. Twenty-eight of the 100 private landowners filed a “quiet title action” against the Town of Wells, the State Bureau of Public Lands, and other individuals in order to prevent the public from using the beach (for activities like walking, sunbathing, or using the beach in front of their homes for general recreation) in 1984 with the Superior Court.¹⁸ The Moody Bunch (the twenty-eight private owners) did not like the increased use of Moody Beach and saw the people as trespassers. The Supreme Court of Maine ruled since the Colonial Ordinance (1641-1647) extended private ownership of the beach to the low water mark, public had no rights to use the beach except for

¹⁵ Ibid 5

¹⁶ Ibid 4

¹⁷ Ibid 4

¹⁸ Ibid 4

fishing, fowling, and navigation in 1986.¹⁹ There were two things that came out of this, one, Maine's legislature passed The Public Trust in Intertidal Land Act of 1986 which made the intertidal lands that were controlled by the State, officially apart of the Public Trust. This had no effect on privately owned intertidal lands, but people took that as that public now had access to the intertidal lands. The second thing that ended up happening was that the Superior Court ruled that the public did not gain access to the intertidal lands from the Public Trust in Intertidal Land Act of 1986 and that the act was unconstitutional. The decision was then appealed, and the Supreme Court of Main upheld the Superior Courts decision in 1989.²⁰

Maine was close to making the intertidal land, which is most commonly the land that make up beaches. However, through the precedent that the Colonial Ordinance from 1641-1647, the Supreme Court of Maine held that the beaches in private ownership were to remain in private control with no easement. The closest example of a State on the West Coast would be Washington with their easement policy on privately owned beaches that extend down to the low tide watermark. Maine's ruling on private versus public access to beaches stand in stark contrast to how Oregon's public access to beaches both in existing policy and how each of the two states arrived at that conclusion. Maine arrived at it through common law practices through the Public Trust Doctrine and Colonial Ordinances that were written before the creation of the United States and when Maine was still apart of Massachusetts. Compared to Oregon which mandated that the beaches were for public use and could not be privatized because they considered a road and later freeway.

¹⁹ 510 A.2d 168 509 (Me. 1986)

²⁰ Ibid 4

Virginia

Virginia is quite different compared to the other states references so far, both from the stronger public beach rights and the stronger private beach rights. Virginia is one of the five states to allow private ownership down to the mean low tide line (Maine is another one). This means that walking at the low water mark is often restricted and illegal to do. However, stating that, there are no laws in Virginia that relate to public beach access or changes to how public or private is used. The state does not also make any difference between vertical markers or lateral markers. In 2011, Virginia's costal program released the Costal Needs Assessment which indicated that there would not have been any change to public access policies.²¹ The lack of proactive debate or challenge to Virginia's public access to their coastal develop shows a stark difference to how the beaches are perceived and thought of. In Florida, the beaches are the image of the State with lots of people using them all the time, almost year-round. Florida one of the older States compared to the West Coast. Florida is the only East Coast State to allow public access at the intertidal mark, but most of the beaches on the upland marker are privatized and have limited access to the beaches. Compared to Maine which had contests between public and private entities with the push for public access being much smaller. Virginia is not the only state to keep most of its beaches limited to only private access, but it is the only state that has not had a serious judicial case for or against public access to the beaches. It had been content to keep beach access to "fish, fowl and navigation."

²¹ "Virginia Coastal Needs Assessment and Strategies: FY 2011-2015." Virginia Coastal Needs Assessment and Strategies: FY 2011-2015 | Adaptation Clearinghouse. April 2011. Accessed December 09, 2020. <https://www.adaptationclearinghouse.org/resources/virginia-coastal-needs-assessment-and-strategies-fy-2011-2015.html>.

The West Coast

When one thinks of the West Coast of the United States, three states usually come to mind. California, Oregon, and Washington. Each of these states have taken similar stances on how beaches should be accessed by the public and not privatized. However, each of these states arrived at their conclusion in a different way. Oregon has made beaches public through a process of determining that the beaches were a public road. Washington eventually made it possible for the public to access both dry and intertidal land. California has made the beaches accessible to the public, but there is an ongoing conflict between beachfront landowners and public beach goers. While each state is similar, it is important to note the differences between them and how each State tackles the problem of public versus private access to beaches.

Oregon

The sun is setting over the water. There is a cool breeze blowing from the sea. You are sitting in the sand, watching the sun sink slowly over the horizon. It is a warm summer evening in Seaside, Oregon. The beach you are sitting on is a public beach. A dog chases a ball across the surf. A kid is making a sandcastle while their parents sit back and watch. The beach is open to all.

Oregon's shoreline is roughly 363 miles long, which is known to be a rocky coastline, but it is also home to expansive beaches which rival California's, albeit a little colder.²² These beaches are often smooth and go on for miles making them ideal to travel. The beaches were a natural roadway that makes traveling the Oregon coast easier as much of the coastline above the

²² "Oregon Coast Trail." Oregon Coast Trail - Oregon State Parks. July 14, 2020. Accessed November 02, 2020. <https://stateparks.oregon.gov/index.cfm?do=v.page&id=95>.

beaches are rocky and mountainous along with forests. The obstacles made it difficult to traverse Oregon's coastal area before the modern road system was put in place. This was what Oswald West thought, Oregon's 14th Governor, when he oversaw the creation of the Oregon's highway system in 1913.²³ In this legislation, Oregon's expansive beaches were designated as a public roadway. This had many different effects for Oregon's beaches, but chief among them was the Oregon's beaches were for public use and could not be privatized. There have been many challenges to the privatization of Oregon's public beaches and difficulties that have come over the years which resulted in the creation of the Oregon Beach Bill. The Oregon Beach Bill was created in 1967 and strengthened in 1968 which made all beaches officially available to the public up to the upland mark where the beach meets vegetation.²⁴

Oregon's beaches were not always public and open for everyone to enjoy. Between 1850 and 1900, the Oregon State Land Board had sold tidelands to private firms and landowners.²⁵ Tidelands are the area between the high tide and low tide to the area where the United States has territorial claims in the ocean. Tidelands were not defined in the United States Constitution and it was ambiguous on whether the Federal Government had control over these lands, or the State Governments did. In 1845, when the Republic of Texas was admitted to the United States, the State of Texas was able to keep control over its tidelands.²⁶ Then in 1947, the Supreme Court of

²³ Schwantes, St Louis Mercantile Library Endowed Professor in Transportation Studies Carlos Arnaldo., Schwantes, Carlos A. *Going Places: Transportation Redefines the Twentieth-century West*. United States: Indiana University Press, 2003. p. 163

²⁴ Butler, Grant. "50 Years Ago, Oregon's Beach Battle Kept Sands Open to Everyone." *The Oregonian*. May 13, 2017. Accessed December 09, 2020.
https://www.oregonlive.com/trending/2017/05/50_years_ago_oregons_beach_bat.html.

²⁵ "Oregon Department of State Lands Historical Overview." Oregon State Department.
<https://www.oregon.gov/dsl/About/Documents/History.pdf>.

²⁶ Bartly, Ernest R. *The Tidelands Oil Controversy: A Legal and Historical Analysis*. Austin: University of Texas Press, 1953. p.23

the United States ruled that States did not have access to the land.²⁷ The tidelands debate ended in 1953, under President Eisenhower, with the Submerged Lands Act.²⁸ This act gave States three geographical miles from their coastline into the ocean as their territory.²⁹ In 1960, The Supreme Court ruled that Texas and Florida would be able to keep control over their territorial water up to nine nautical miles due to past treaties.³⁰ The tidelands were controlled by the State Government of Oregon for its early history. In Oregon's early statehood, tideland (the land between low and high tide) was sold privately to firms. The railroads caused a boom in seaside resorts along coastal towns like Seaside, Newport, and Rockaway. The rail barons promoted the purchase of land along the coast which started to limit people's ability to access the beaches. By 1901, twenty-three miles of tidelands were sold to different firms and investors.³¹ Twenty-three miles might not appear to be a significant amount of land, but development along the coast was still sparse and underdeveloped. The Transcontinental Railroad was connected to Portland in 1883 and still had ~80 miles to the coast (following along Highway 26).³² In less than twenty years, the coast was beginning to be privatized like the coastline on the East Coast was.

The privatization of beaches did not become normalized and the beaches of Oregon did not stay in the hands of private firms for very long. In 1911, Oswald West ran on the campaign of returning the beaches back to the public. West won the election of 1911 and was made

²⁷ *United States v California*, 332 U.S. 19 (1947)

²⁸ *Submerged Lands Act*, 43 U.S.C. §§ 1301 et seq.

²⁹ *Ibid.*

³⁰ *United States v. Florida*, 363 U.S. 121 (1960)

³¹ "Oregon Department of State Lands Historical Overview." Oregon State Department. <https://www.oregon.gov/dsl/About/Documents/History.pdf>.

³² 1843 to 1901." Archives RSS. February 01, 2016. Accessed December 09, 2020. <https://www.portlandoregon.gov/archives/article/284518>.

governor of Oregon between 1911 to 1915.³³ During this time, Governor West worked to pass legislature that would get the beaches back into public hands away from and out of private ones. The fight was not over conservation and saving the beaches though. The fight was between making the beaches available for a price or make them free to travel along. Governor West went about making an argument for using the beaches for transportation because his opposition heavily favored keeping the beaches privatized. This took the argument away from those who would be able to profit from the privatization of beaches because the beaches as roads would be necessary for people to travel up and down the coast. Privatizing roadways is usually disliked by the public because roads are how people travel from point A to point B in most travel and would affect a great deal of people who need to travel. That is what Governor West argued for when trying to make the beaches a public space. The side effect being of this argument is that the public has the ability for to enjoy the beaches. The state legislature created legislature that made the entire length of the shoreline from California to Washington a state highway. This did a few things for Oregon's beaches. The first effect that this legislature had was that it set up the beaches for public use and could not be corned off as it would impede travel along a state highway. The main effect of the legislation was that it created the Oregon State Highway Commission in August of 1913 (which preceded the Oregon Department of Transportation (ODOT) in 1969).³⁴

The Oregon State Highway Commission oversaw the construction the road systems in Oregon. Most of the infrastructure the Highway Commission oversaw were dirt roads when the

³³ Lynn, Capi. "Oregon Celebrates 50 Years of Beach Bill." Statesman Journal. July 05, 2017. Accessed December 09, 2020. <https://www.statesmanjournal.com/story/news/2017/07/02/oregon-celebrates-50-years-beach-bill/440250001/>.

³⁴ "ODOT History." Oregon Department of Transportation : ODOT History : About Us : State of Oregon. Accessed December 09, 2020. <https://www.oregon.gov/odot/about/pages/history.aspx>.

organization was created. For a good portion of Oregon, when the rain came, it became very difficult to get around through the mud. The main type of transportation around the State of Oregon was by railroad. This was one of the reasons that the Oregon Shoreline became a state highway. The beaches were mostly flat and stretched for miles with a lot of room between the land and the sea. Governor West observed the beaches used as a travel method and wanted to return the beaches back to public hands. In the creation of the Oregon State Highway Commission, Governor West took care of two issues with designating the beaches as state highways. One other thing that the Oregon State Highway Commission did in promoting Oregon's beaches as public and as highways was the creation of 36 state parks along the coastal highway. Each of these parks were placed one for every 10 miles and encouraged the use the state highway and the beaches when the roadways were fully open to the public.³⁵ The creation of the state parks with the creations of the highways greatly improved the use of the beaches and solidified the idea that these beaches were for public use by the majority of people who used them. Investors and firms still sought to privatize the beach to make more money from tourism and sought to close off sections of the beaches, but it was already becoming more difficult.

Oregon's public beaches were challenged in 1966. A motel owner (SurfSand Resort) in Cannon Beach, William Hay, had fenced an area of dry sand off that was above high tide.³⁶ Hay took large driftwood logs and blocked off an area and added some umbrellas and tables. Hay then added private property signs on the perimeter. On closer inspection of Governor's West 1913 legislation mentions that the wet sand is meant for the public highway use. At this point in time, private owners and firms owned 112 of 262 miles of beach along the coast of Oregon

³⁵ Ibid.

³⁶ "Oregon Secretary of State." State of Oregon: Blue Book - Protecting Oregon Beaches Web Exhibit. Accessed December 08, 2020. <https://sos.oregon.gov/blue-book/Pages/explore/exhibits/beaches/introduction.aspx>.

privately owned according to the Oregon Parks and Recreation Advisory Committee.³⁷ Citizens complained to the state government which began the process of state legislators putting together what would later be known as the Oregon Beach Bill. The Oregon Beach Bill's goal was to promote and secure the public use of beaches. By this time, the State Highways are built and no longer need to use the Oregon's beaches as easy paths to travel along the Oregon Coast. The need for them as roadways to move along the coast becomes less important. However, the sentiment that Oregon's beaches are made to be used by the public is still strong in the public's mindset.

The Republican Governor at the time, Governor McCall, supported the State Highway Commission introducing two bills for the 1967 legislature. These two bills would become the Oregon Beach Bill. These bills were modeled after the Texas Open Beaches Act. The Texas Open Beaches Act was passed in 1959. The act guaranteed free public access to beaches along the Texas Coast. In the act, it states:

The public shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico.”³⁸

The Texas State Government would not allow beach properties to be reconstructed after major destruction from different hurricanes if they conflicted with the bill and were built on the beach, near the vegetation line. Another part of the Texas Open Beach Act was that it allowed for the

³⁷ Ibid.

³⁸ Texas Natural Resources Code: Title 2: Subtitle E; Chapter 61: Subchapter B Texas Natural Resources Code: Title 2: Subtitle E; Chapter 61: Subchapter B, Sec 61.011. <https://statutes.capitol.texas.gov/Docs/NR/htm/NR.61.htm>

public use of the beach even if the beach was privately owned. The Oregon Beach bill copied that part and claimed that the public had adverse possession of the beaches.

Section 2. (1) The Legislature Assembly recognizes that over the years the public has made frequent and uninterrupted use of lands abutting, adjacent and contiguous to the public highways and state recreation areas and recognizes, further, that where such use has been sufficient to create easements in the public through dedication, prescription, grant or otherwise, that it is in the public interest to protect and preserve such public easements as a permanent part of Oregon's recreational resources.³⁹

Which meant that all beachfront property from the dry sand to the sea belonged to the public because the public had believed that and exercised that belief previously for many years. Any private property that was on land between the low tide marker and the vegetation line was eased to the public to use and the public's right could not be infringed upon as well. This was a significant achievement for legislators in the name of the public good for beach access. The Beach Bill's success and significance did not end there.

Section 2. (3) The Legislative Assembly further declares that it is in the public interest to acquire additional rights and to do whatever is necessary to preserve and protect scenic and recreational use of Oregon's seashore and ocean beaches.⁴⁰

This piece of the Beach Bill protects the public's ability to use this land for recreational use. It lays out that more rights can be given to the public to help protect the public's ability to use the beaches and to weaken the ability of firms or private owners to own and control the Oregon shoreline. However, the success of the Beach Bill did not have its difficulties when it was created.

Passing the Oregon Beach Bills was not easy. Certain legislators had held up the bill and stopped it from being passed. One legislator, Representative Bazett coined the term "the Beach

³⁹ House Bill 1601. 2. 1 (Or. 1967). <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 1

⁴⁰ House Bill 1601. 2. 3 (Or. 1967). <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 1

Bill.” This was to grab attention of the public and garner promote support to pass this legislation with the name and the associated articles written about it. However, in the Beach Bill’s early inception, there was little support for the bill and the bill almost did not see the light of day. There was heavy opposition to passing the legislation as there were many special interest groups who wanted to keep the dry sands available for privatization. The Beach Bill’s goal was to confirm the public use of the beach and not allow the private sector to exploit that area which had been considered public and safe from privatization by most people. Legislators who opposed the Beach Bill looked like they were about to succeed in keeping the Beach Bill from being passed even with the extra media promoting it. This would have opened the beach to more exploitation of the private sector which is exactly what Portland KGW-TV, General Manager Payne, made a broadcast about. The broadcast called on the people to contact their legislators to support the bills to get passed and flood the legislative officers with letter, telegrams, and telephone calls. The broadcast was the first significant help the Beach Bill received and started to move it forward in the legislative process, but it was still a long way from being passed. Then, in order to get the last bit of support the Beach Bill needed, Governor McCall came up with a plan to garner that support.

Governor McCall did a media stunt of his own to garner attention and support for the Oregon Beach Bill. In May of 1967, Governor McCall with a group of scientists from Oregon State University and some other legislators and press members went to the Oregon Coast. While on the coast, Governor McCall’s team took video and photos showing how the Beach Bill would affect the beach. They showed the tidal range and what is considered the upland area. They lastly marked what would be considered public property on the beaches. The team arrived on the Oregon beaches in two helicopters to make a dramatic entrance and begin the media stunt. The

last part of the stunt was a photo op of the Governor glaring at the driftwood barrier set up by the owner of SurfSand Resort in Hay, Oregon.



Photo is of Governor McCall looking at the SurfSand Resort.⁴¹ As tame as the media stunt is to today's standards, it had a strong effect on the Oregon legislature and public opinion of the Beach Bill. The opposition reached a compromised on the public beach bill. Instead of taking land from private owners like in Texas, the public beaches would be treated as easements to the vegetation line for those areas that were developed and claimed. However, the Beach Bill did accomplish its goal of preserving and maintaining the public use of beaches between the seashore and the sea.

The Beach Bill did not end all claims and lawsuits on the use of public and private beach land, but it did succeed in securing the beaches for the public. That is where the Measure 6 of 1968 comes into help the transition to public beaches. Measure 6 was an attempt to pay off the

⁴¹ Oregonian/OregonLive, Grant Butler | The. "50 Years Ago, Oregon's Beach Battle Kept Sands Open to Everyone." Oregonlive. May 13, 2017. Accessed December 08, 2020. https://www.oregonlive.com/trending/2017/05/50_years_ago_oregons_beach_bat.html.

private owners and firms that owned parts of the Oregon beaches. The private owners who would not follow the practice of easing the land between high tide and the vegetation set by the Beach Bill were encouraged to sell the land under Measure 6. The measure solved most issues at the time, but private owners and enterprising individuals have challenged public access to beaches over the years since the passing of this legislation. Although the battle for beach access in Oregon may appear to be over, it can still be challenged and overturned. For the moment, it would appear though that the Oregon Beaches will stay available to the public.

There was one side effect of the Oregon Beach Bill which could not have been foreseen by designating the beaches as under the purview of the State Highway Commission. "Section 7. The State Highway Commission is hereby authorized to police, protect and maintain property that is subject to section 5 of this Act..."⁴² The most media worthy event that was caused by the Oregon Beach Bill was the explosive removal of a whale that washed up on a beach. In 1970, a sperm whale carcass drifted on to the beach near Florence, Oregon.⁴³ Since the beach was considered part of the state highway system, it was the job of the Oregon Highway Division to remove the sperm whale that had washed ashore. The Oregon Highway Division decided on removing the whale with dynamite after consulting with the United States Navy.⁴⁴ The head engineer, George Thornton, told an interview that he was not sure how much dynamite was needed. Thornton decided on 450 kg of dynamite.⁴⁵ A military explosive expert stated that 3.8 kg

⁴² House Bill 1601. 7 (Or. 1967). <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 2

⁴³ Chappell, Bill. "Man Behind Oregon's Famous Exploding Whale Dies." NPR. November 01, 2013. Accessed December 09, 2020. <https://www.npr.org/sections/thetwo-way/2013/11/01/242347861/man-behind-oregons-famous-exploding-whale-dies>.

⁴⁴ Kval. "The Infamous Tale of Oregon's Exploding Whale: November 12, 1970." KVAL. November 14, 2018. Accessed December 08, 2020. <https://kval.com/news/offbeat/the-infamous-tale-of-oregons-exploding-whale-november-12-1970>.

⁴⁵ Ibid

of explosive would have sufficed, but his advice went unconsidered.⁴⁶ The detonation of the dynamite and the gasses created by the decaying whale, sent parts of the whale over 800 feet.⁴⁷ Pieces of the whale flew onto buildings and into the parking lot nearby. One large piece of blubber caused serious damage to a parked car near the beach.

California

California is the largest of the three states with a coastline of about 840 miles.⁴⁸ California has the third largest coastline in the United States with only Alaska and Florida above it. Not all of it is made up of golden shores that stretch on for miles. In fact a good portion of it is quite rocky and inaccessible. The rocky terrain is not the only thing that stops people from accessing California's public beaches. In California, a person or firm is not allowed to make a beach private, although private beaches do exist. If beaches are supposed to be public, how are there still private beaches in California? Beaches become private because if a beach has no access to it except for going through private property, the beach is considered inaccessible and is not available to the public. This means that the beach is "closed off" and only those that have access to the private property have access to the beach. For the most part, it is very difficult and close to impossible for people to buy all the land that is necessary to make a beach private. Besides the small, private beaches, all beaches in California are open to the public even if you see a fence around it. A person might be shouted at by the fence owner or a security guard in Malibu, but the beach goer is legally allowed to enjoy the beach as long as they do not cross

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ United States. National Oceanic and Atmospheric Administration (1975). *The Coastline of the United States*. U.S. Department of Commerce, National Oceanic and Atmospheric Administration. https://www.google.com/books/edition/The_Coastline_of_the_United_States/omJjbP-BuYkC?hl=en&gbpv=0 p. 2

private property. California reached this conclusion through some key legislation, much like Oregon, but in a very different way.

In 1972, the California Coastal Commission (CCC) was established in 1972.⁴⁹ The California Coastal Commission was established by voter initiative under Proposition 20. The Proposition official states:

[Proposition 20] Creates State Coastal Zone Conservation Commission and six regional commissions. Sets criteria for and requires submission of plan to Legislature for preservation, protection, restoration and enhancement of environment and ecology of coastal zone. Establishes permit area within coastal zone as the area between the seaward limits of state jurisdiction and 1000 yards landward from the mean high tide line.⁵⁰

The goal of this committee was to add an agency that would deal directly with coastal development. This proposition was created because of multiple development projects and California's government needed a group of people dedicated to overseeing coastal development. One of the developments was a coastal community called Sea Ranch. This development was planted to encompass roughly ten miles of coastline and would limit the use of the coastline only to private use. A significant portion of the coastline project was industrial and wanted to use the area to create powerplants with easy access to water. People were concerned about the public access to the coast and activist formed to protect the coast. Through their work with some politicians, Proposition 20 was created. The original California Coastal Commission was limited in scope and created to overlook these initial development projects. However, this was going to change, and the California Coastal Commission was eventually expanded to watch over the

⁴⁹ Gurish, Jonathon. *Overview of California Ocean and Coastal Laws With Reference to the Marine Environment: Prepared for California Ocean Protection Council*. California Ocean Protection Council http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Overview_Ocean_Coastal_Laws.pdf

⁵⁰ Voter Information Guide for 1972, General Election (1972). https://repository.uchastings.edu/ca_ballot_props/774

California's Coastline and deal with the ongoing conflict between private rights and public access of beaches.

The California Coastal Commission had a permit for its authority and originally it was supposed to end after 1976.⁵¹ Then California's legislature passed the California Coastal Act which established the California Coastal Commission as a permanent part of the government. The act made the California Coastal Commission in charge of protecting of coastal resources, including shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works.⁵² The organization is designed to deal with and work California's coastline. The California Coastal Act changed the California Coastal Commission to be able to do more than review development projects off or on the coast of California. This act made the California Coastal Commission a regulatory organization between the private rights of beaches and protectors of public access to beaches.

The California Coastal Commission has had a difficult time dealing with its goals and responsibilities due to the size of the commission and its funding. The commission is that it is made up of twelve members, six of which are chose from the public and the other six are elected officials. One of its greatest drawbacks is that it only has eleven enforcement officers to investigate violations which when dealing with California's coastline, can be quite difficult. It

⁵¹ Gurish, Jonathon. *Overview of California Ocean and Coastal Laws With Reference to the Marine Environment: Prepared for California Ocean Protection Council*. California Ocean Protection Council http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Overview_Ocean_Coastal_Laws.pdf

⁵² Ibid.

was only until 2014 that the enforcement officers could issue fines.⁵³ This meant that for most of the time, the California Coastal Commission could only deny permits for projects to go forward and had a difficult time dealing with old and new issues that came from established properties.

The lack of power and underfunding that the California Coastal Commission has become apparent when it could not effectively deal with beachside property owners in Malibu from putting up fences, stopping the public use of those beaches. It had been a long and drawn-out issue between two property owners, Dr. Warren Lent, and Henny Lent. After being given the ability to fine people in violation of the California Coastal Act of 1976, the California Coastal Commission fined the Lents \$4.2 million dollars for “diverting a public easement to private use at an expensive oceanfront rental.”⁵⁴ This was not the first beachside property owner and it would not be the last to try and restrict access to the public beaches in California.

Compared to the Oregon State Highway Commission, the California Coastal Commission was designed for the task of taking care of its coastline. Both organizations are important to maintaining the beaches that are very profitable and popular natural resources. Whereas the Oregon State Highway Commission’s was in charge maintaining the highways and by extension the beaches with the argument being that the roads cannot be privatized, the California Coastal Commission made it so that the beaches are a public resource and people have the right to use that space. In California, much like Oregon, the public space originally just dealt with the area up to high tide. Oregon’s public access extends further than California’s does, but both States

⁵³ SB-861 35. (Ca. 2013) Public Resources: Trailer Bill

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB861

⁵⁴ "Two Malibu Property Owners Fined \$5.1 Million for Blocking Access to Public Beach." Los Angeles Times. December 09, 2016. Accessed December 09, 2020. <https://www.latimes.com/local/lanow/la-me-headlines-coastal-fines-20161208-story.html>.

maintain that a significant portion of the beaches are meant to be used by the public and cannot be privatized by people or firms.

Washington

It is difficult to talk about the “Northwest” without talking about Washington. Although Oregon and Washington are similar in many aspects and often feel like one continuous state, they could not be more different when it comes beach access. Washington is the outlier when it comes to the West Coast with allowing private ownership down to the low water mark.⁵⁵ The low water mark is the lowest level reached by the sea at low tide.⁵⁶ The low water mark is the minimum distance that the water recedes too. This mark is almost never exposed. In theory, this is a point with rising water levels that is no longer reachable by the sea level. This is significant to the other two states because their focus is on the high tide mark which is the highest point. This may not appear significant at first, but it realistically means that the beaches are not all public and can be private down to the lowest point the water reaches which means no access at all. Now, the important thing to figure out is how Washington got there and why it differs so much from the other states.

Washington used to allow people to purchase lands down to the low water mark. The reason for this was in the early days of the state when loggers and shellfish farmers purchased tidelands. For both of these industries, it was important to own the land down to the low water mark. For the loggers, the rivers and waterways of Seattle made it easier to transport lots of wood rather than overland. For shellfish farmers, it was their farming area that they were

⁵⁵ Edelman, Danielle. "Public Beach Access." University of Washington. June 19, 2017. Accessed December 7, 2020. <https://smea.uw.edu/currents/public-beach-access/#:~:text=Washington has perhaps the most,rules of any Western state.&text=While the state no longer,generations and remain private property.>

⁵⁶ Ibid.

purchasing which made since to allow for people to own down to the low water mark.⁵⁷ It is important to note that people or firms are no longer able to purchase this land, the land that was originally owned is grandfathered in and allowed to be passed down and remain private property.

Since Oregon made beaches public early on in its state hood most of the beaches today are public. Unfortunately the same cannot be said for Washington. Between the time Washington became a state in 1889 and 1971, the state sold 70% of its tidelands to private property owner and firms.⁵⁸ Like the other states on the West Coast, Washington created its own costal management legislation. In 1972, Washington legislature passed the Shoreline Management Act.⁵⁹ The Shoreline Management Act required all counties with shoreline development to implement The Shoreline Programs. The goal of these programs was to “prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.”⁶⁰ The Shoreline Management Act focused on three separate areas which are shoreline use, environmental protection, and public access. For the shoreline use as a whole, the goal is to limit more damage and focus on controlling pollution. When developing new projects on the shorelines, they are now reserved for more “water-oriented” uses which include local water needs, recreational uses, water dependent industrial and commercial and ports.⁶¹ The preferred objective of the organization is to expand public use to the shoreline areas instead of protecting or creating more private developments. Overall, the main goal of the Shoreline Management Act like the

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ "Shoreline Management Act." Shoreline Management Act - Washington State Department of Ecology. Accessed December 07, 2020. [https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA#:~:text=The Shoreline Management Act \(SMA,adopted by voters in 1972.\)](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA#:~:text=The Shoreline Management Act (SMA,adopted by voters in 1972.)).

⁶⁰ Ibid.

⁶¹ Ibid.

California Coastal Act is to protect the natural resources of the land which include, but are not limited to the land, wildlife, and vegetation.

Washington was not the slowest to make beach access a public resource and recognize it as such, but actively sold and developed that land. The Shoreline Master Programs do include public access and creating new access to areas that were already owned to open up what was left. In doing this, the Shoreline Master Programs also started to implement a common law practice called Public Trust Doctrine. This ensured that the water of the state is a public resource. The public resources are navigation, conducting commerce, fishing, recreation, and similar uses.⁶² The last thing that is important for this program is that it discusses compensation for taking private property. This is very important since most of the shoreline at this point is private property. The government cannot outright take the private property and make it public again after the passing of the act without due process and just compensation. In acquiring new land, the government must pay a fair market value for it.

Oregon was the first legislature on the West Coast to official recognize the importance of public beach access in 1968. Washington passed its own regulation in 1972. California passed its Coastal Protection Act in 1976 with a pilot program in 1972. The shift in public access of beaches contrasts strongly to the East Coast States chosen in this paper having held onto private rights of land that should be accessible to all to enjoy rather than the few that own and limit access to.

⁶² Ibid.

Conclusion

Oregon is one of the few states that allows both the intertidal and the upland part of the beaches to be accessed by the public. Not only did Oregon achieve public access for its beaches before most other states conceived of the idea, but Oregon also went about it in a unique way. Thanks to the actions of Governor West in 1913, Oregon made its beaches available to the public to enjoy and use due to classifying it as a roadway. This would cause different issues that other states do not usually see like the Oregon's Department of Transportation using explosives to remove a whale from the beach. People would still fight to corner off their part of the beach and/or charge people to use it, but the beaches would remain in the hands of the public with Measure 6 of 1968 which would officially make all land between low tide and the vegetation that marked the end of the beach public and those that held the land were encouraged to sell or were forced to ease the land the two public.

California, Oregon and Washington are often compared to each other as well as lumped together when looking at regulations. Even though Oregon is small and often following behind in California's and Washington's shadow, Oregon still manages to keep pace with environmental regulation or surpass them every now and then. Washington is often clumped with Oregon as the "Northwest." Oregon and Washington are similar in many ways, but almost have as many differences as possible. One major difference is how they treat their beaches and how they reached it. Washington had sold most of its intertidal and upland to different industries and private interest. It was not until the legislature passed the Shoreline Management Act which would stop private entities from being able to buy upland and intertidal parts of the shoreline and creating an easement policy so the public could use both the intertidal area of the beaches and the upland area for recreation. California has had a difficult time maintaining that the beaches are

open to the public up to the high tide mark at minimum. Several communities continually try to limit and stop the public from being able to use “their beaches.” Washington and California both went about public beach access in a different way to Oregon.

On the East Coast, public beach access is a different story for a few states. The laws are older and still closely to common law practices. The East Coast States have been States longer than the West Coast States and have old ways of looking at the beaches and the coast that are still around today. Much of the private property had been bought long before the discussion of public access to beaches and the private owners are unlikely to ease anyone onto their private beach. Florida, the “Sunshine State” is not too different from California when it comes to its policy towards public access. However, Florida compared to the West Coast has still had battles between public the ruling also held that the beaches that have been long held by the public are to remain in public trust. While Florida’s beach access laws are similar, they do not compare to the West Coast’s public access, especially Oregon’s which has strong public access protection for all of the beach.

Maine is the second oldest State that was looked at for how they regulate their beach access. Maine is one of the five states that continue to allow for private ownership of land down to the low tide and full control of the intertidal area except for three activities, fishing, fowling, and navigation. There was not a public access challenge to this, but what caused the legislative and judicial system to act of the public versus private access was twenty-eight homes filing a quiet action to stop people from using “their” beach for walking or relaxing in the sun. This spurred the Superior and the Supreme Court of Maine to settle this issue and make ruling based on common law practice. This came in the form of calling on a colonial ordinance created by another State (Massachusetts) that it used to be a part of to determine that the upland and

intertidal land were allowed to be privatized. The legislature attempted to rectify public access to the beaches and entrust it to the public domain, but the Supreme Court struck the legislation as unconstitutional. Not only was there the strengthening of private rights, but a strike to an attempt to make the beaches public for all to use. This is completely different to how the West Coast has dealt with their beaches and the battle versus public and private access.

Last, but not least, Virginia was one of the original thirteen and the oldest state looked at for public versus private access. There has not been any significant action in Virginia on a legislative or judicial scene about the issue. The government of Virginia has been content to keep the old Colonial Ordinance that. Inaction and unchanging access to the intertidal and upland areas have created a distinct difference in who can and use the beaches.

Public access to beaches is often taken for granted on the West Coast. Heading off to the coast for a weekend is a frequent pastime for lots of people. Whether people are running, playing, or simply lying in the sun, beach access can be enjoyed by everyone. However, there is always a threat to public access of beaches. It is not hard to find private challenges to beach access and private entities are always looking for a way to corner off their own section of the beaches. Oregon has done a unique job in keeping the beaches public and available for anyone to enjoy. While most have justified public use through stating it is a public resource and everyone has the right to enjoy them or the need to protect beaches from more development so people can enjoy this part of nature, Oregon went in a different direction. The beaches are a road, a way to travel along the coast. Like roads cannot be privatized, the beach should remain open and free to be used by the public.

Works Cited

Primary Sources

510 A.2d 168 509 (Me. 1986)

Butler, Grant. "50 Years Ago, Oregon's Beach Battle Kept Sands Open to Everyone." *The Oregonian*. May 13, 2017. Accessed December 09, 2020.

https://www.oregonlive.com/trending/2017/05/50_years_ago_oregons_beach_bat.html.

Chappell, Bill. "Man Behind Oregon's Famous Exploding Whale Dies." NPR. November 01, 2013. Accessed December 09, 2020. <https://www.npr.org/sections/thetwo-way/2013/11/01/242347861/man-behind-oregons-famous-exploding-whale-dies>.

City of Daytona Beach v. Tona-Rama, Inc. 294, So 2d 75, 77 (Fla. 1974).

CS/HB 631 (Fla. 2018). <https://www.flsenate.gov/Session/Bill/2018/631/BillText/er/PDF>. p. 1

Duff, John; James, Liana; and LaBate, Victoria, *Public Shoreline Access in Maine: A Citizen's Guide to Coastal and Ocean Law (1990)*. Maine Sea Grant Publications.

http://www.accessingthemainecoast.com/coastal_access_toolkit/E-MSG-90-3-1.pdf. p. 4, 5

Duff, John; James, Liana; and LaBate, Victoria, "Public Shoreline Access in Maine: A Citizen's Guide to Coastal and Ocean Law" (2016). Maine Sea Grant Publications. 118.

https://digitalcommons.library.umaine.edu/seagrant_pub/118 p. 2

Florida State University Law Review, *City of Daytona Beach v. Tona-Rama, Inc.*, 294 So. 2d 73 (Fla. 1974), 2 Fla. St. U. L. Rev. 806 (1974). <https://ir.law.fsu.edu/lr/vol2/iss4/7>

House Bill 1601. 2. 1 (Or. 1967).

<http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 1

House Bill 1601. 2. 3 (Or. 1967).

<http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 1

House Bill 1601. 7 (Or. 1967).

<http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/3749721>. p. 2

Gurish, Jonathon. *Overview of California Ocean and Coastal Laws With Reference to the Marine Environment: Prepared for California Ocean Protection Council*. California Ocean Protection Council

http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Overview_Ocean_Coastal_Laws.pdf

"Oregon Coast Trail." Oregon Coast Trail - Oregon State Parks. July 14, 2020. Accessed November 02, 2020. <https://stateparks.oregon.gov/index.cfm?do=v.page&id=95>.

SB-861 35. (Ca. 2013) Public Resources: Trailer Bill

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB861

Submerged Lands Act, 43 U.S.C. §§ 1301 et seq.

Texas Natural Resources Code: Title 2: Subtitle E; Chapter 61: Subchapter B Texas Natural Resources Code: Title 2: Subtitle E; Chapter 61: Subchapter B, Sec 61.011.

<https://statutes.capitol.texas.gov/Docs/NR/htm/NR.61.htm>

United States. National Oceanic and Atmospheric Administration (1975). *The Coastline of the United States*. U.S. Department of Commerce, National Oceanic and Atmospheric Administration.

https://www.google.com/books/edition/The_Coastline_of_the_United_States/omJjbP-BuYkC?hl=en&gbpv=0 p. 2

United States v California, 332 U.S. 19 (1947)

United States v. Florida, 363 U.S. 121 (1960)

Voter Information Guide for 1972, General Election (1972).

https://repository.uchastings.edu/ca_ballot_props/774

Secondary Sources

1843 to 1901." Archives RSS. February 01, 2016. Accessed December 09, 2020.

<https://www.portlandoregon.gov/archives/article/284518>.

Bartly, Ernest R. *The Tidelands Oil Controversy: A Legal and Historical Analysis*. Austin: University of Texas Press, 1953. p.23

Edelman, Danielle. "Public Beach Access." University of Washington. June 19, 2017. Accessed December 7, 2020. [https://smea.uw.edu/currents/public-beach-access/#:~:text=Washington has perhaps the most,rules of any Western state.&text=While the state no longer,generations and remain private property.](https://smea.uw.edu/currents/public-beach-access/#:~:text=Washington%20has%20perhaps%20the%20most,rules%20of%20any%20Western%20state.&text=While%20the%20state%20no%20longer,generations%20and%20remain%20private%20property.)

Flournoy, Alyson C., Thomas T. Ankersen, and Sasha Alvarenga. *Recreational Rights to the Dry Sand Beach in Florida: Property, Custom and Controversy*. UF Law Scholarship Repository. January 2019. Accessed November 22, 2020.

<https://scholarship.law.ufl.edu/facultypub/831/> p. 21

"Historical Data Concerning Florida" Know Florida, Issued by the State Department of Agriculture, Tallahassee, Circa 1937, p. 29-31

Kval. "The Infamous Tale of Oregon's Exploding Whale: November 12, 1970." KVAL. November 14, 2018. Accessed December 08, 2020. <https://kval.com/news/offbeat/the-infamous-tale-of-oregons-exploding-whale-november-12-1970>.

Lynn, Capi. "Oregon Celebrates 50 Years of Beach Bill." Statesman Journal. July 05, 2017. Accessed December 08, 2020.

<https://www.statesmanjournal.com/story/news/2017/07/02/oregon-celebrates-50-years-beach-bill/440250001/>.

"ODOT History." Oregon Department of Transportation : ODOT History : About Us : State of Oregon. Accessed December 08, 2020.

<https://www.oregon.gov/odot/about/pages/history.aspx>.

"Oregon Department of State Lands Historical Overview." Oregon State Department.

<https://www.oregon.gov/dsl/About/Documents/History.pdf>.

"Oregon Secretary of State." State of Oregon: Blue Book - Protecting Oregon Beaches Web Exhibit. Accessed December 08, 2020. <https://sos.oregon.gov/blue-book/Pages/explore/exhibits/beaches/introduction.aspx>.

- Schwantes, St Louis Mercantile Library Endowed Professor in Transportation Studies Carlos Arnaldo., Schwantes, Carlos A. *Going Places: Transportation Redefines the Twentieth-century West*. United States: Indiana University Press, 2003. p. 163
- "Shoreline Management Act." Shoreline Management Act - Washington State Department of Ecology. Accessed December 07, 2020. [https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA#:~:text=The Shoreline Management Act \(SMA,adopted by voters in 1972.\)](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA#:~:text=The Shoreline Management Act (SMA,adopted by voters in 1972.))
- "Two Malibu Property Owners Fined \$5.1 Million for Blocking Access to Public Beach." Los Angeles Times. December 09, 2016. Accessed December 08, 2020. <https://www.latimes.com/local/lanow/la-me-headlines-coastal-fines-20161208-story.html>.
- "Virginia Coastal Needs Assessment and Strategies: FY 2011-2015." Virginia Coastal Needs Assessment and Strategies: FY 2011-2015 | Adaptation Clearinghouse. April 2011. Accessed December 09, 2020. <https://www.adaptationclearinghouse.org/resources/virginia-coastal-needs-assessment-and-strategies-fy-2011-2015.html>.