

COMMISSIONER'S ORDER

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Peter Goldmark
Commissioner of Public Lands

WITHDRAWAL AND DESIGNATION ORDER FOR THE NISQUALLY REACH AQUATIC RESERVE

The State of Washington is owner of aquatic lands known as the Nisqually Reach site, consisting of tidelands and bedlands surrounding Anderson and Ketron Islands, including the bedlands of the Nisqually Reach and along the southern shore of McNeil Island. Under statutory mandates, the Washington State Department of Natural Resources manages state-owned aquatic lands, and has found the following attributes that make the Nisqually Reach site unique and critical for conservation:

The confluence of oceanographic, estuarine and riverine influences creates ecosystem conditions that result in highly productive habitat and extremely high species diversity.

Juvenile Chinook and chum salmon develop in the estuarine waters near the delta and migrate along the shorelines of Anderson Island and the Reach utilizing small pocket estuaries still common in the area.

Vegetated nearshore areas are dominated by extensive emergent salt marsh, eelgrass beds, kelp and other macroalgae. These habitats provide critical refuge, spawning, nursery and foraging habitat for juvenile salmonids, rockfish, crabs, and numerous other marine oriented species.

A large variety of waterbird species rely on the habitat and food availability at the site, including alcids, ducks, grebes, loons and cormorants. The high bluffs found at the site provide prime nesting habitat for Pigeon Guillemots. Marbled Murrelets have been documented in parts of the area, perhaps using the Nisqually River as a corridor between potential nesting grounds at Mount Rainer National Park and foraging waters at the Nisqually Reach.

The state Department of Natural Resources 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

Considering 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)).

The goals of establishing a reserve at the Nisqually Reach site are to protect the natural conditions of the area and ensure strong protection of the state-owned aquatic lands to prevent further habitat degradation. Emphasis will also be placed on environmental education, research and restoration that support a healthy nearshore environment. The site will be managed for environmental protection, research and education as directed in the Nisqually Reach Aquatic Reserve Management Plan.

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, Peter Goldmark, hereby order and direct that Washington State tidelands and bedlands described below are withdrawn from the general leasing program and established as an Aquatic Reserve.

LEGAL DESCRIPTION

A portion of the Tidelands and Bedlands owned by the State of Washington within Puget Sound lying North of the Nisqually River and South of McNeil Island in Pierce County and in Thurston County, Washington. Said Tidelands are fronting and abutting Government Lot 2 of Section 1, Government Lots 1 and 2 of Section 12, Government Lots 2 to 5 of Section 23, Government Lot 1 of Section 24, and Government Lots 1 to 3 of Section 25, all in Township 19 North, Range 1 West, Willamette Meridian; Government Lots 1 to 3 and 5 to 7 of Section 1, Government Lots 1 to 3 of Section 2, Government Lots 1 to 4 of Section 4, Government Lots 1 to 5 of Section 6, Government Lots 1 to 4 of Section 7, Government Lots 1 to 5 of Section 8, Government Lots 1 to 7 of Section 9, Government Lots 1 and 2 of Section 11, Government Lots 1 to 5 of Section 12, Government Lot 1 of Section 13, Government Lots 1 to 4 of Section 14, Government Lot 1 of Section 15, Government Lot 1 of Section 16, Government Lots 1 to 10 of Section 17, Government Lots 1 to 3 of Section 18, Government Lot 1 of Section 20, Government Lots 1 to 4 of Section 22, Government Lots 1 and 2 of Section 27, Government Lots 1 to 5 of Section 28, Government Lots 1 to 4 of Section 29, Government Lots 1 to 4 of Section 30, Government Lot 1 of Section 31 and Government Lot 4 of Section 33, all in Township 19 North, Range 1 East, Willamette Meridian; a portion of Government lot 4 along with Government Lots 5 and 6 of Section 19, Governments Lots 1 to 3 of Section 20, a portion of Government lot 4 of section 23, Government Lot 1 of Section 26, Government Lot 1 to 4 of Section 27, Government Lots 1 to 4 of Section 28, Government Lots 1 to 3 of Section 29, Eagle Island in Sections 28 and 29, Government Lots 1 and 2 and the Northeast Quarter of the Northeast Quarter of Section 32, Government Lots 1 to 5 of Section 33, and Government Lots 1 to 3 of Section 31, all in Township 20 North, Range 1 East, Willamette Meridian.

Said Reserve Is Further Described As Follows:

Commencing at the Section Corner common to Sections 22, 23, 26, and 27, Township 20 North, Range 1 East, Willamette Meridian, located on McNeil Island in Pierce County, Washington; thence East along the South Line of said Section 23 to the East Meander Corner common to said Sections 23 and 26; thence continuing East along the Prolongation of said South Line of Section 23 to the Line of Extreme Low Tide and **Point of Beginning**; thence Northeasterly, fronting a portion of Government Lot 4 of said Section 23, to a Position that intersects a Geographic Latitude of 47°12'03.81" North; thence Southeasterly to a Geographic Position with a Latitude of 47°12'02.95" North and a Longitude of 122°38'25.43" West; thence Southeasterly to a Position on the Outer Harbor Line of

Steilacoom Harbor, map of said Steilacoom Harbor being adopted on November 3, 1891, said position intersecting a Geographic Latitude of 47°09'50.69" North and fronts Government Lot 5 of Section 1 of said Township 19 North, Range 1 East; thence Southerly along said Outer Harbor Line fronting a portion of Government Lot 5, along with Government Lots 6 and 7 of Section 1, Government Lots 2 to 4, and a portion of Government Lot 5 of Section 12, all in said Township 19 North, Range 1 East, to the Southwest corner of said Steilacoom Harbor; thence Easterly along the Southerly Line of said Steilacoom Harbor to the Northwest Corner of Tract 36, said Tract 36 being a portion of the First Class Tidelands of Steilacoom Tidelands, map of said Steilacoom Tidelands being approved in February of 1895, said tract 36 being sold to Mary A. Bloom by that deed dated April 12, 1904 and filed in Volume 5 at Page 136 in State Records of Tideland and Shoreland Deeds at the Office of the Commissioner of Public Lands; thence Southwesterly along the Westerly Line of said Tract 36, fronting a portion of Government lot 5 of said Section 12; thence Southwesterly along the Westerly Line of Tract 37 of the First Class Tidelands of said Steilacoom Tidelands fronting Government Lot 1 of Section 13 of said Township 19 North, Range 1 East, said Tract 37 being awarded to the United States of America on July 14, 1920 per Cause No. 42358, Army Post Condemnation Case No. 2, Pierce County Records along with and Northern Pacific Railroad on January 26, 1909 per Decree No. 27279, Pierce County Records, to the most Northerly Corner of Tract 38 of the First Class Tidelands of said Steilacoom Tidelands sold to Frank I. Curtis by that deed dated February 10, 1909 and filed in Volume 9 at Page 55 in State Records of Tideland and Shoreland Deeds at the Office of the Commissioner of Public Lands; thence Southwesterly along the Northwesterly Line of said Tract 38, fronting Government Lot 1 and a portion of Government Lot 2 of Section 14 of said Township 19 North, Range 1 East, to the Northwest Corner of said Tract 38; Thence Southerly along the Westerly Line of said Tract 38 to the Northerly Line of said Government Lot 2; thence Southerly and Easterly, along the Waterward Boundaries of a portion of Government Lot 2 along with Government Lots 3 and 4 of Section 14, Government Lot 1 of Section 15, Government Lots 1 to 4 of Section 22, all in said Township 19 North, Range 1 East, to the Meander Corner common to Section 22 and 27 of said Township 19 North, Range 1 East; thence

Southwesterly along a line lying North of the Nisqually River and McAllister Creek to the Meander Corner common to Section 25 of said Township 19 North, Range 1 West and Section 30 of said Township 19 North, Range 1 East; thence Northwesterly along the Waterward Boundaries of Government Lots 1 to 3 of Section 25, Government Lot 1 of Section 24, Government Lots 2 to 5 of Section 23, all in Township 19 North, Range 1 West, to the Southeast Corner of Government Lot 1 of said Section 23; thence Northeasterly across the Nisqually Reach and the Drayton Passage to a Geographic Position with a Latitude of 47°11'43.47" North and a Longitude of 122°43'19.30" West; thence Northwesterly to a Geographic Position with a Latitude of 47°12'23.46" North and a Longitude of 122°43'50.75" West opposite Hogan Point on McNeil Island; thence Northeasterly to a Position on the Line of Extreme Low Tide that intersects a Geographic Latitude of 47°12'26.72" North and fronts Government Lot 4 of Section 19 of said Township 20 North, Range 1 East; thence Easterly along said Line of Extreme Low Tide fronting a portion of said Government lot 4 along with Government Lots 5 and 6 of said Section 19, Government Lots 1 to 3 of Section 20, Government Lot 1 of Section 29, Government Lots 1 to 4 of Section 28, Government Lots 1 to 4 of Section 27, Government Lot 1 of Section 26, and a portion of Government Lot 4 of Section 23, all in Township 20 North, Range 1 East, to the **Point of Beginning**.

Excepting Therefrom:

Anderson Island

Eagle Island

Ketron Island

Any existing Bedlands and Shorelands of the Nisqually River and McAllister Creek

**Also, Excepting Therefrom,
The Following Conveyances Filed In The State Records Of Shoreland And Tideland
Deeds At The Office Of The Commissioner Of Public Lands:**

- Horace Middaugh by that deed dated March 20, 1903, filed in Volume 4 at Page 212.
- Pioneer Sand and Gravel Company by that deed dated June 24, 1913, filed in Volume 12 at Page 249.
- E. I. Dupont deNemours Powder Company by that deed dated June 6, 1912, filed in Volume 12 at Page 17.
- The Eastern Dynamite Company by that deed dated June 23, 1906, filed in Volume 7 at Page 429.
- Samuel C. Knowles by that deed dated January 20, 1913, filed in Volume 12 at Page 36.
- Samuel C. Knowles by that deed dated June 6, 1911, filed in Volume 10 at Page 342.
- United States of America by that deed for mineral interests dated December 20, 1933, filed in Volume 17 at Page 409.
- D. H. Bales by that deed dated October 23, 1920, filed in Volume 14 at Page 377.
- W. H. Bennett by that deed dated October 23, 1920, filed in Volume 14 at Page 379.
- W. H. Yeager Jr. by that deed dated March 9, 1943, filed in Volume 19 at Page 215.
- J. H. Duncan by that deed dated September 15, 1932, filed in Volume 17 at Page 338.
- George Martin Babare by that deed dated January 10, 1962, filed in Volume 23 at Page 232.
- W. C. Luhr by that deed dated September 22, 1943, filed in Volume 19 at Page 327.
- Robert S. Barbare by that deed dated January 17, 1962, filed in Volume 23 at Page 233.
- Mary Tomich by that deed dated April 21, 1932, filed in Volume 17 at Page 305.
- Martin Tomich by that deed dated September 20, 1933, filed in Volume 17 at Page 444.
- Martin Tomich by that deed dated December 12, 1941, filed in Volume 19 at Page 1.
- George Babare by that deed dated December 28, 1960, filed in Volume 23 at Page 130.
- O. C. Hanson by that deed dated June 6, 1911, filed in Volume 11 at Page 386.
- O. C. Hanson by that deed dated August 31, 1934, filed in Volume 17 at Page 373.
- G. M. Utterback and C. C. Cherry by that deed dated February 14, 1913, filed in Volume 12 at Page 59.
- George Olson and Abbie Olson with an undivided one half interest and George M. Utterback with an undivided one half interest by that deed dated July 15, 1942, filed in Volume 19 at Page 97
- W. H. Yeager by that deed dated May 9, 1916, filed in Volume 13 at Page 212.
- Mary M. Miller, a widow, and Winlock W. Miller by that deed dated August 4, 1919, filed in Volume 14 at Page 148.
- Mary M. Miller Sons, by that deed dated June 6, 1911, filed in Volume 11 at Page 469.
- Tacoma Mill Company by that deed dated January 22, 1909, filed in Volume 9 at Page 41.
- Tacoma Mill Company by that deed dated June 6, 1911, filed in Volume 10 at Page 614.

- Tacoma Mill Company by that deed dated September 23, 1903, filed in Volume 4 at Page 337.
- J. A. Hoshor by that deed dated December 19, 1911, filed in Volume 10 at Page 613.
- J. A. Hoshor by that deed dated June 6, 1911, filed in Volume 11 at Page 503.
- Lena Christensen by that deed dated October 20, 1953, filed in Volume 21 at Page 812.
- Lena Christensen by that deed dated April 21, 1953, filed in Volume 21 at Page 721.
- Cammon Brothers Sawmill by that deed dated June 26, 1951, filed in Volume 21 at Page 465.
- Nettie E. Swan by that deed dated May 4, 1945, filed in Volume 19 at Page 575.
- Ernest Lusier and Helen Lusier by that deed dated June 26, 1951, filed in Volume 21 at Page 478.
- Fred A. Lee by that deed dated April 26, 1923, filed in Volume 15 at Page 79.
- Stephen Gulseth by that deed dated September 26, 1941, filed in Volume 18 at Page 671.
- Carl Tueson by that deed dated April 26, 1923, filed in Volume 15 at Page 78.
- Hattie L. Johnson by that deed dated October 20, 1953, filed in Volume 21 at Page 813.
- Benjamin E. Johnson by that deed dated August 26, 1952, filed in Volume 21 at Page 640.
- Mrs. Iva Hicock by that deed dated May 19, 1944, filed in Volume 19 at Page 428.
- Chester A. Burg by that deed dated May 2, 1944, filed in Volume 19 at Page 419.
- Rupert Burg by that deed dated May 2, 1944, filed in Volume 19 at Page 420.
- Ruby St. Jean by that deed dated May 2, 1944, filed in Volume 19 at Page 423.
- Mrs. Mable Joelson by that deed dated May 2, 1944, filed in Volume 19 at Page 422.
- Agaton Olson by that deed dated April 4, 1950 filed in Volume 21 at Page 337.
- E. A. Ehricke by that deed dated July 12, 1945 filed in Volume 19 at Page 629.
- Agaton Olson by that deed dated October 6, 1955 filed in Volume 22 at Page 240.
- C. J. Eikeness by that deed dated July 12, 1945 filed in Volume 19 at Page 644.
- W. J. Baskett by that deed dated July 12, 1945 filed in Volume 19 at Page 645.
- Mrs. W. J. Baskett by that deed dated November 2, 1945 filed in Volume 20 at Page 31.
- Kautz Investment Company by that deed dated March 2, 1921 filed in Volume 14 at Page 447.
- Edwin H. Wilcox and Marjorie L. Wilcox by that deed dated February 20, 1959 filed in Volume 22 at Page 815.
- Peter P. Dahlgreen by that deed dated February 3, 1914 filed in Volume 12 at Page 367.
- Peter P. Dahlgreen by that deed dated June 6, 1911 filed in Volume 10 at Page 304.
- Carl A. Petterson by that deed dated April 30, 1909 filed in Volume 9 at Page 120.
- Carl J. Ostling by that deed dated April 28, 1910 filed in Volume 9 at Page 377.
- B. F. Jacobs by that deed dated February 8, 1911 filed in Volume 10 at Page 74.
- W. I. Moulton by that deed dated March 10, 1917 filed in Volume 13 at Page 291A.
- W. I. Moulton by that deed dated June 6, 1911 filed in Volume 11 at Page 282.
- Christine Anderson by that deed dated August 18, 1948 filed in Volume 21 at Page 131.
- Foss Launch and Tug Company by that deed dated January 7, 1955 filed in Volume 22 at Page 159.
- Raymond F. Weinrich by that deed dated July 12, 1943 filed in Volume 19 at Page 268.
- John E. Johanson by that deed dated October 18, 1949 filed in Volume 21 at Page 318.
- J. W. Rollag by that deed dated April 21, 1953 filed in Volume 21 at Page 727.
- L. H. Hill by that deed dated May 4, 1945 filed in Volume 19 at Page 576.
- Fred J. Robbins by that deed dated May 4, 1945 filed in Volume 19 at Page 578.
- Sanford A. Stoner by that deed dated May 2, 1944 filed in Volume 19 at Page 417.
- J. L. Skelton by that deed dated January 25, 1946 filed in Volume 20 at Page 90.
- J. L. Skelton by that deed dated August 26, 1946 filed in Volume 20 at Page 190.
- Isabel Judson by that deed dated October 18, 1939 filed in Volume 18 at Page 442.
- Lesh Land Company by that deed dated November 6, 1909 filed in Volume 9 at Page 267.
- Andrew Anderson by that deed dated April 21, 1953 filed in Volume 21 at Page 725.
- Harry S. Thorberg by that deed dated August 8, 1945 filed in Volume 19 at Page 648.
- Harry S. Thorberg by that deed dated April 21, 1943 filed in Volume 19 at Page 231.
- Helda Lindstrom by that deed dated March 3, 1911 filed in Volume 10 at Page 93.
- Mrs. W. F. McClelland by that deed dated March 21, 1917 filed in Volume 13 at Page 286.
- Francis E. Berry by that deed dated April 22, 1954 filed in Volume 22 at Page 45.
- Charles R. Buchanan by that deed dated July 12, 1945 filed in Volume 19 at Page 630.
- Robert Wingate Estate by that deed dated March 11, 1913 filed in Volume 12 at Page 110.
- Robert Wingate Estate by that deed dated June 6, 1911 filed in Volume 10 at Page 325.
- Stetson Trust Company by that deed dated January 26, 1906 filed in Volume 7 at Page 261 and 262.
- Stetson Trust Company by that deed dated June 6, 1911 filed in Volume 11 at Page 281.
- Stetson Trust Company by that deed dated May 11, 1909 filed in Volume 9 at Page 141.
- Robert Wingate Estate by that deed dated August 22, 1918 filed in Volume 13 at Page 488.

Subject To:

- A Right of Way Easement for two Submarine Cable Crossings over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Department of Corrections under Authorization #51-077187.
- A Right of Way Easement for a Sewer Outfall over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the United States Penitentiary under Authorization #51-033301.
- A Right of Way Easement for a Submarine Cable Crossing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Pacific Northwest Bell Telephone Company under Authorization #51-038213.
- A Right of Way Easement for a Wharf Site over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Pierce County under Authorization #51-000396.
- A Right of Way Easement for a Submarine Cable Crossing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Sound Telephone Company under Authorization #51-032139.
- A Right of Way Easement for a Ferry Landing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Pierce County under Authorization #51-01762.
- A lease for a Private Marina over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Riviera Community Club under Authorization #20-A012471.
- A Right of Way Easement for a Submarine Cable Crossing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Pacific Northwest Bell Telephone Company under Authorization #51-031615.
- A Right of Way Easement for a Submarine Cable Crossing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the City of Tacoma under Authorization #51-030276.
- A Right of Way Easement for a Ferry Dock over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Pierce County under Authorization #51-003071.
- A lease for a Private Marina and Boat Moorage over a Portion of the State Owned Aquatic Lands of Puget Sound assigned to Thomas and Kathleen Palmer under Authorization #20-013175.
- A lease for a Private Marina over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Oro Bay Properties under Authorization #20-013385.
- A lease for a Private Marina over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Tacoma Yacht Club under Authorization #20-A012239.
- A lease for a Private Marina over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the Bremerton Yacht Club under Authorization #20-A013429.
- A Right of Way Easement for a Sewer Outfall over a Portion of the State Owned Aquatic Lands of Puget Sound granted to the United States Corp of Engineers under Authorization #51-033960.
- Withdrawal of a Portion of the State Owned Aquatic Lands of Puget Sound granted to the State Parks and Recreation Commission under Authorization #20-009760 and Commissioner's Order #72-252.
- A Right of Way Easement for a Submarine Cable Crossing over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Mutual Power and Light Company under Authorization #51-026946.
- A lease for a Private Barge Loading Dock and a Mooring Buoy over a Portion of the State Owned Aquatic Lands of Puget Sound granted to Lone Star Northwest Incorporated under Authorization #20-013511.

Pending Applications for Use Authorizations:

- A pending lease applied for by the Nisqually Indian Tribe for Clam Cultivation over a Portion of the State Owned Aquatic Lands of Puget Sound under Application #20-070874.
- A pending lease applied for by Pierce County for a Ferry Dock over a Portion of the State Owned Aquatic Lands of Puget Sound under Application #20-013513.
- A pending lease with WA Parks and Recreation for the tidelands and bedlands surrounding Eagle Island and extending to ¼ mile; a use agreement was proposed in 1978, but the agreement was never signed by the two Departments under Application #20-0011390.
- An application with the Department of Corrections for the passenger ferry dock to service the McNeil Island prison; a use agreement was proposed in 1989, but the agreement was never signed by the two Departments. A survey and legal description were prepared for the authorization, but the correspondence stopped in 1991. In Sept. 2010, DNR sent a letter to the

Department of Corrections in an attempt to resume communications, no reply letter located under Application #20-0012901.

Dated this 9th day of Sept, 2011.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES



Peter Goldmark
Commissioner of Public Lands
Olympia, Washington