

Brooke Sullivan

From: Greg Stein <gstein@wfdi.net>
Sent: Tuesday, April 2, 2024 12:17 PM
To: Brooke Sullivan
Subject: Fwd: Port of Friday Harbor questions

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Begin forwarded message:

From: "Nealer, Cailan (DNR)" <Cailan.Nealer@dnr.wa.gov>
Subject: RE: Port of Friday Harbor questions
Date: November 1, 2022 at 5:16:40 PM PDT
To: Greg Stein <gstein@wfdi.net>
Cc: "Harder, Gabriel (DNR)" <Gabriel.Harder@dnr.wa.gov>, "Planning and Permit Services, LLC" <fshaw@rockisland.com>

Hi Greg,

Are you looking for a Port contact? The Port requested the inclusion of the area into their PMA and DNR determined that they were eligible to do so. The Port and their surveyors created the new PMA parcel for inclusion which supersedes the old leasehold boundaries.

It appears that DNR worked with Todd Nicholson at the Port of Friday Harbor on this:

Todd S. Nicholson
Port of Friday Harbor
Executive Director
P.O. Box 889
Friday Harbor, WA 98250
360-378-2688 ext. 226
toddn@portfridayharbor.org

Let me know if this is what you were looking for!

Thanks,

Cailan Nealer (*she/her*)
Ports Program Manager
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
1111 Washington St SE Olympia, WA 98501

Cell: (360) 790-3508 | Fax: (360) 902-1786

Cailan.nealer@dnr.wa.gov

www.dnr.wa.gov

From: Greg Stein <gstein@wfdi.net>

Sent: Tuesday, November 1, 2022 11:06 AM

To: Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov>

Cc: Harder, Gabriel (DNR) <Gabriel.Harder@dnr.wa.gov>; Planning and Permit Services, LLC <fshaw@rockisland.com>

Subject: Re: Port of Friday Harbor questions

External Email

Thanks for providing further clarity of the different governmental relationships involved in these matters.

Having said that, I still need to talk to whoever made the decision to change this line from it's previous location. Please forward name, contact information, and agency contact information for whoever made this decision.

Thanks again for your help navigating the various governmental agencies in this matter.

Greg

On Oct 26, 2022, at 5:22 PM, Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov> wrote:

Hi Greg,

I think it is important to recognize that this area has changed hands from private entities to a public entity. The Port has legislative authority to enter into a Port Management Agreement (PMA) with DNR to managed state owned aquatic lands on behalf of the State per [RCW 79.105.420](#) and [WAC 332-30-114](#). This area was formerly leased by private parties without those legislative authorities. Under the previous private party scenario, the leasehold area square footage is used to determine rents. Therefore, the original leasehold areas would have been strategically the smallest footprint possible. A lease provides for mostly exclusive use of the leasehold area except for those rights afforded to the public via the Public Trust Doctrine and some other rights (e.g. State can provide easements and other instruments if compatible with the use, and so on).

The relationship as it currently exists between the Port and DNR is different. The Port, as provided by the legislature, is allowed to manage state owned aquatic lands adjacent to their upland properties. When the purchases in this area occurred, the Port expanded

their PMA to encompass the larger area eligible for inclusion in the PMA under the law. Under a PMA, Ports are not charged for water-dependent uses (like marinas) as a regular Tenant would be - only non-water dependent uses – so the interest in being conservative in the square footage of the management area does not hold when dealing with a PMA like it would with private parties and/or standard DNR leases. In fact, importantly, the PMA is not a lease at all – it is a delegation of authority from DNR to the Port.

The Port is still required, per the PMA with DNR, to follow the same RCWs and WACs regarding the management of state owned aquatic lands that DNR follows. The Port cannot keep you from accessing your waterfront property. However, it does give them the ability to plan and manage the uses in the area (as long as it meets the RCWs and WACs laid out for state owned aquatic lands).

Your best resource regarding the motives of the PMA area expansion would be the Port. However, it appears from the Record of Survey that the PMA boundary was expanded (as allowed through their legislative authority) in order to facilitate the waterward expansion and redevelopment of the existing marinas.

I hope this gives you a little more insight into the changes in this area.

Thank you,

Cailan Nealer (*she/her*)
Ports Program Manager
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
1111 Washington St SE Olympia, WA 98501
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From: Greg Stein <gstein@wfdi.net>
Sent: Wednesday, October 26, 2022 3:43 PM
To: Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov>
Cc: Harder, Gabriel (DNR) <Gabriel.Harder@dnr.wa.gov>; Francine Shaw <fshaw@rockisland.com>
Subject: Re: Port of Friday Harbor questions

External Email

I need to talk to whoever changed this line from it's previous location. If it does not make any difference where the line is, then why was it moved? What are ramifications of the location of this line? Please forward name and contact information for whoever made the decision to move this line.

Thanks for all your help in this matter,

Greg

On Oct 26, 2022, at 3:56 PM, Nealer, Cailan (DNR)
<Cailan.Nealer@dnr.wa.gov> wrote:

Mr. Stein,

Thank you for the call the other day. I looked into the boundary line we discussed and as I assumed, the Port and their surveyors used an apportionment based on the size and shape of the bay to determine the line.

In thinking about your concerns regarding the line, I did want to clarify that no matter where the line is, you have the ability to ingress and egress through the area to get to your property as protected by the Public Trust Doctrine.

Thanks again,

Cailan Nealer (*she/her*)
Ports Program Manager
Aquatic Resources Division
Washington State Department of Natural Resources (DNR)
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Cailan.nealer@dnr.wa.gov
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From: Harder, Gabriel (DNR) <Gabriel.Harder@dnr.wa.gov>
Sent: Friday, October 21, 2022 11:43 AM
To: gstein@wfdi.net
Cc: Nealer, Cailan (DNR) <Cailan.Nealer@dnr.wa.gov>
Subject: Port of Friday Harbor questions

Mr. Stein,

Thank you for contacting DNR about the Port Management Agreement for the Port of Friday Harbor and the Shipyard Cove facilities now owned by the Port. I'm sorry I wasn't able to answer your questions. Cailan Nealer is the Land Manager for the PMA's and can be reached at 360-790-3508 or by email - I have copied her on this email. There is some information available on our website here:<https://www.dnr.wa.gov/programs-and-services/aquatics/aquatics-leasing-and-licensing/ports>

Kind Regards,

Gabe Harder

Aquatic Land Manager

Washington State Department of Natural Resources (DNR)

919 N. Township St.

Sedro-Woolley, WA 98284

Cell (360) 630-1297

gabriel.harder@dnr.wa.gov

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