Water Concepts in Michigan

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Disclaimer
Water Law is both State Statute and Common Law (Case Law)

- I do not make either
- I am not an attorney
- I am not a judge
- I do not make DEQ policy
Riparian / Littoral

- River vs. Lake
- Land touches water
- Four rights - dockage, access, domestic uses, accretions.

Shallow water near shore
Public Rights in Water

- Superior
- Use, not ownership
- Must gain legal access
- Inland vs. Great Lakes

Navigate
Fish and swim

Owner
Guest
Park
Road
Public Trust Doctrine

- Protection
- Not ownership - trust title
- Cant relinquish

Only public waters but.. MEPA?
Air, Water, Wildlife
Riparian Doctrine

- Reasonable use
- No harm
- Can’t separate land/ water
Western Water Law

- First in time
- Severable from land
- Must use... but
Thread of Stream

- Surface center
- Deepest center
- Or center of navigation channel

Thread ?

Thalweg
Public Stream

- Ruled so by Circuit Court
- Public vs navigable
- Size, history, current use

Can go around obstructions
Access by road or bridge
Public Lake

- Ruled so by Circuit Court
- Access - state land/ Co road
- Public stream access ??
- > 2 owners
- Part 301 controlled if >5ac
Promenade Walkway

- Easement or fee?
- Road
- Park
Fishing Rights

- A public right
- Boating, swimming
- Not permanent moorage
- Reasonable
Fowling Rights

- Not a public right

- But....
Accretion and Reliction

- Gain by Accumulation or Water Receding
- Gradual
- Changes boundaries
- Opposite: Erosion
  Inundation
Bottomlands

- Flooded or Submerged
- Opposite is uplands

Up
Wetland
Floodplain
Bottom
River Method

Riparian Interest Area Apportionment
Riparian?  A

Road
Riparian?

Lots

Road
The End