

Waterfront Titles in Washington

WLTA Education Seminar

Spokane

September 24, 2016

Lynnwood, WA

October 15, 2016

George N Peters Jr.

Washington Land Title Association



Disclaimer:

When it comes to water
and title insurance - the
operative term is:

"CYA"

"Control your
assumptions"

...as we control
ours

WATER



- ❖ What is it?
- ❖ Who owns it?
- ❖ Who controls it?
- ❖ Who owns the land under it or next to it?
- ❖ Does the title company care about any of these things?

WATER

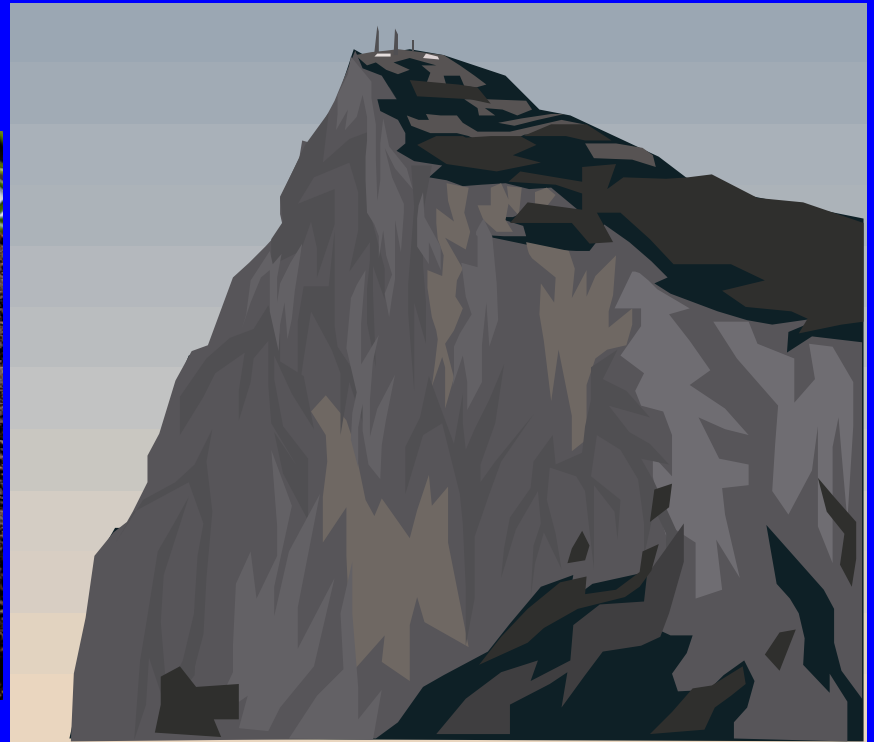
Water is a physical substance
that can be next to, on or under
land

BUT - it's not part of the "land"
as defined in a title insurance
policy

The following are components of
"land" as defined in the ALTA
policies



"Dirt" (maybe including rock -
sand and gravel)



Minerals (maybe including rocks - sand and gravel)



Growing trees & shrubs



Growing crops



Improvements



BUT WATER...

- ❖ Is not owned by the land owner or other individuals
- ❖ Is a natural resource owned/managed by State



That is why title insurers have
a general ("standard")
exception in Schedule B in
policies =

*"Water rights, claims or title
to water"*

We don't insure title to water

By the way:

This general exception
is unrelated to

*standard coverage vs.
extended coverage*

So, water isn't insured land - but
it does affect:

- ❖ *Title to the land*
- ❖ *Use of the land*
- ❖ *Boundaries of the land*

These are title insurance issues

Land

- ❖ Ok, we talk about *land* that is affected by water - *not* water
- ❖ Three kinds of "water" related land:
 - ❖ *Uplands* - Not under water - but maybe abutting water
 - ❖ *Submerged land* - Under water part or all of the time
 - ❖ *Wetlands* - affected by water

SUBMERGED LANDS

Four categories in
Washington:

1 - Tidelands

Beds of *navigable waters*: applies to Puget Sound, ocean, the mouths of some rivers



State owns since 1/11/1889

Tidelands

Puget Sound, ocean *and certain rivers* - that are subject to the *ebb and flow of tides*

- ❖ Some conveyed to private owners. If so:
 - ❖ Separate chain of title from adjoining uplands
 - ❖ But need to include in a legal description

If not conveyed by State, still in State Ownership

Boundary is line of *ordinary high tide*

TIDELANDS

Tide Lines in Washington State

(↓ Denotes boundary lines of title ownership)

There are two *high tides* and two *low tides* each day

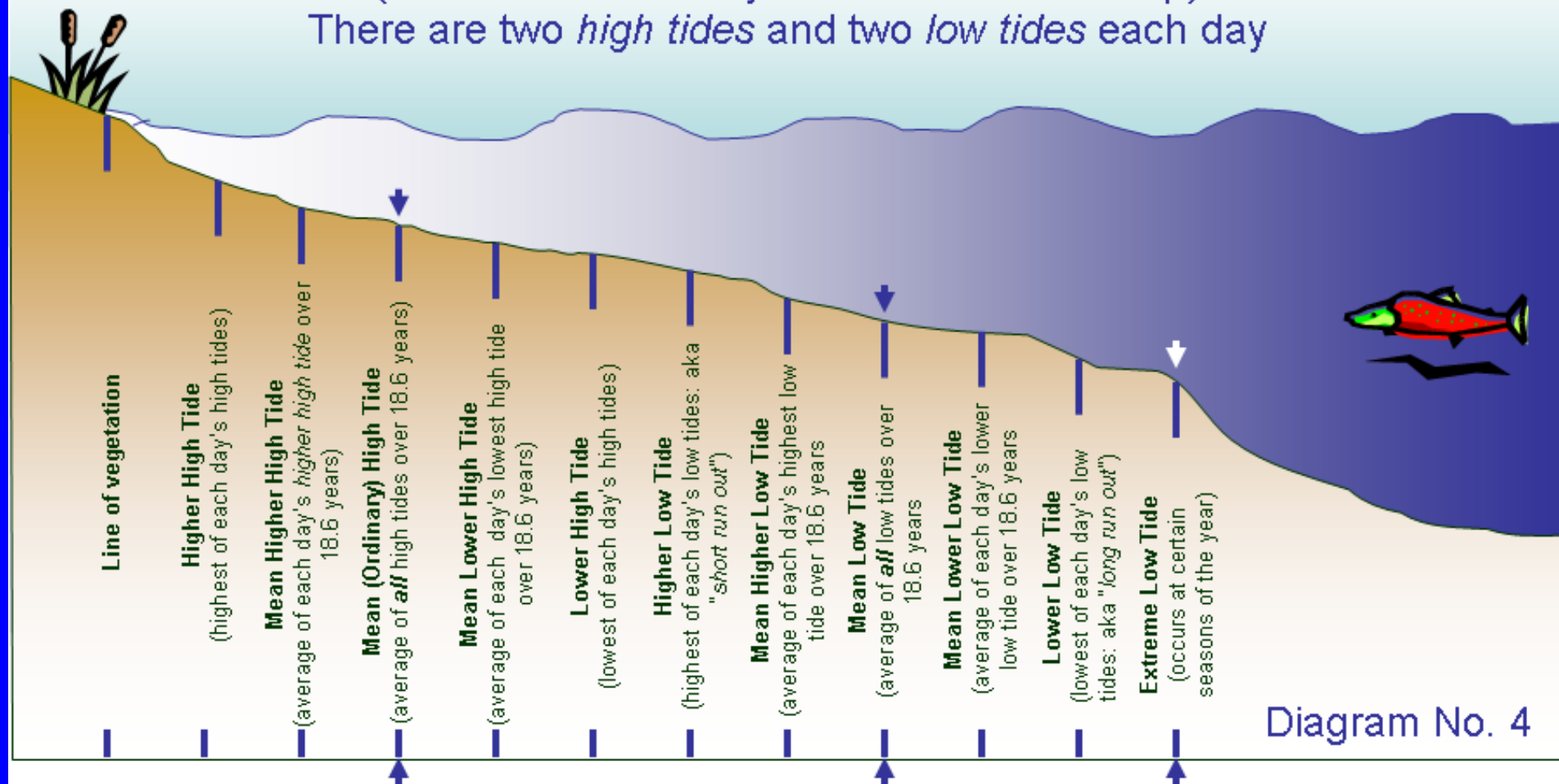


Diagram No. 4

2 - Shorelands

Beds of *navigable*
waters: applies to
lakes, rivers,
streams

State owns since 1/11/1889



Shorelands

Lakes, rivers, streams - *not* subject to tidal flow - but *navigable*

- ❖ Some conveyed to private owners. If so:
 - ❖ Separate chain of title from adjoining uplands
 - ❖ But *must be* included in the legal description

Unless conveyed by State, still in State Ownership

Boundary is Line of *ordinary high water*

FIRST CLASS TIDELANDS & SHORELANDS

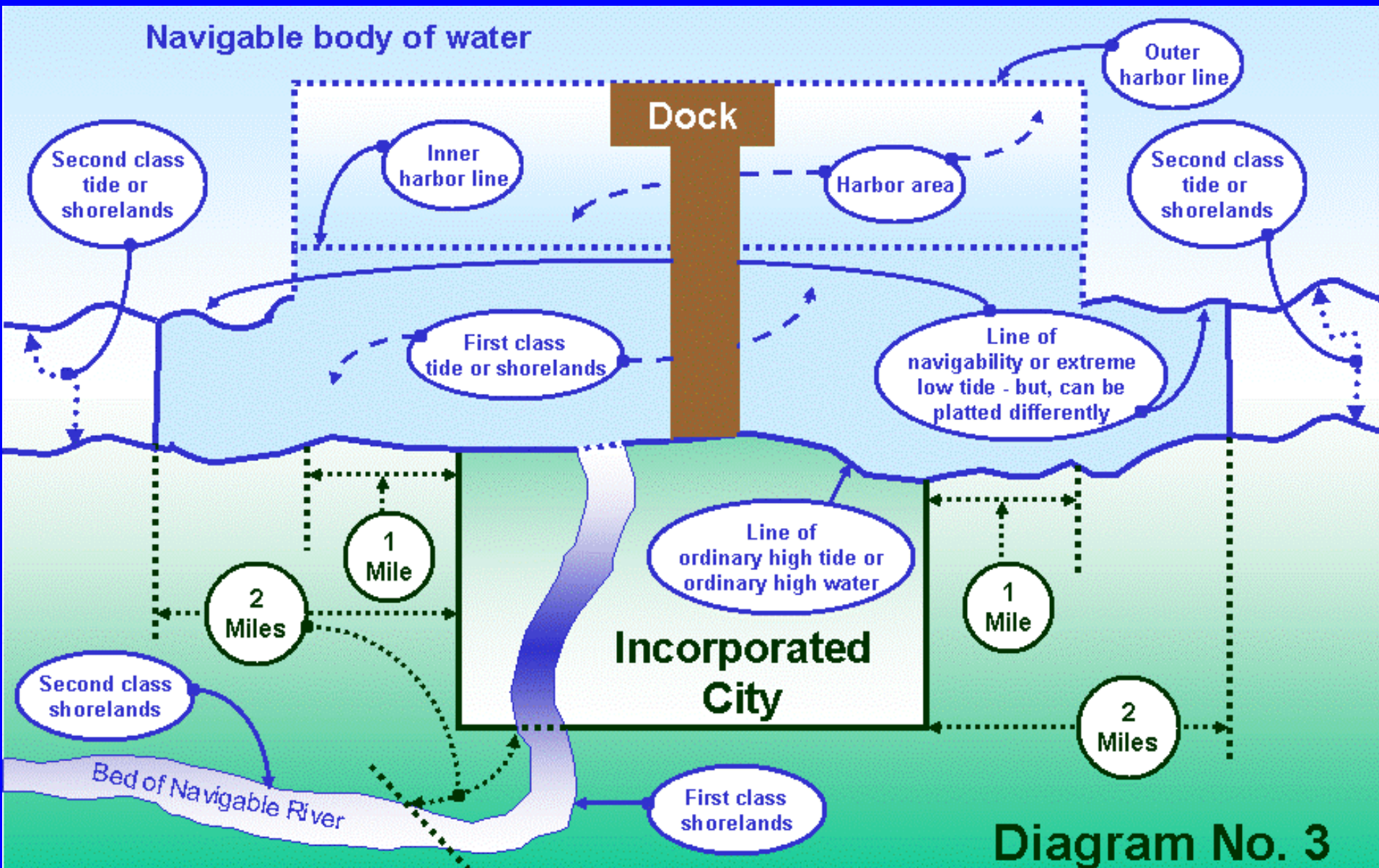


Diagram No. 3

3 - Bed of *non-navigable* bodies of water

- ❖ Applies to small lakes & streams
- ❖ Title *not* vested in the State
- ❖ Title included in uplands
description *without* mentioning
it

4 - Land beyond the outer limits of tidelands or shorelands (line of *navigability*)

- ❖ cannot be in private fee ownership
- ❖ portions (harbor areas) can be leased from the State

TITLE EXCEPTIONS

These exceptions apply
across the state -

Not just limited to the
"wet" side of the
mountains

TITLE EXCEPTIONS

- ❖ The nature of the land determines what exceptions are shown
- ❖ And - the legal description might not even mention water
- ❖ Exact language may vary among title companies

TITLE EXCEPTIONS

- ❖ Some deal with *TITLE* to submerged land
- ❖ Others deal with *BOUNDARY* questions
- ❖ Others deal with *USE* questions

TITLE EXCEPTIONS

They are shown because:

❖ We don't know

and

❖ We don't care

1 Public and Private Riparian Rights

Any prohibition or limitation on the use, occupancy, or improvements of the land resulting from the rights of the public or riparian owners to use any waters which may cover the land or to use any portion of the land which is now or may formerly have been covered by water.

USE of submerged (or formerly submerged)
land

Includes "Public Trust" Doctrine

1 Public and Private Riparian Rights

Covers, among other things

- ❖ rights of downstream owners to water that crosses upstream *riparian* land
- ❖ Rights of *other owners* to use the surface of the water (Bitter Lake)
- ❖ Rights of the *public* to use the surface (Lake Chelan)
- ❖ rights of the state to regulate uses of *tidelands, shorelands* and adjoining *uplands* under the *Shoreline Management Act* (“public trust”)
- ❖ Shown whether *standard coverage* or *extended coverage*

1 Public and Private Riparian Rights

When to show

- ❖ tidelands
- ❖ shorelands
- ❖ land between high tide and seaward meander line if patent before statehood
- ❖ current or former lake beds, navigable or not
- ❖ current or former beds of rivers, streams or sloughs, navigable or not
- ❖ harbor areas
- ❖ uplands abutting such lands
- ❖ oyster lands

PUBLIC TRUST DOCTRINE

Government authority to

- ❖ protect the public interest, and
- ❖ regulate development, commerce, navigation and environmental protection
- ❖ essentially, zoning
 - ❖ tidelands & shorelands
 - ❖ *wetlands*
 - ❖ uplands within 200 feet of these lands

PRIVATE RIPARIAN RIGHTS

- ❖ Abutting upland owner is a *riparian* owner
 - ❖ In *addition* to any title to the bed
- ❖ Riparian owner has right, along with all riparian owners
 - ❖ to reasonable use of the surface of a lake
- ❖ Riparian rights of abutters are owned in common
 - ❖ Thus: each upland owner can use entire surface of lake
 - ❖ not just the area over the bed owned by the riparian abutter

RIGHTS OF THE PUBLIC

- ❖ General public has rights to use the surface of water for recreational purposes
- ❖ Title insurers take exception to such rights, whether navigable or non-navigable

2 State of Washington ownership

Rights of the State of Washington in and to that portion of said premises, if any, lying in the bed or former bed of the *[insert the name of the body of water]*, if it is navigable.

TITLE exception - affects *riparian or littoral land abutting or under navigable water*

2 State of Washington ownership

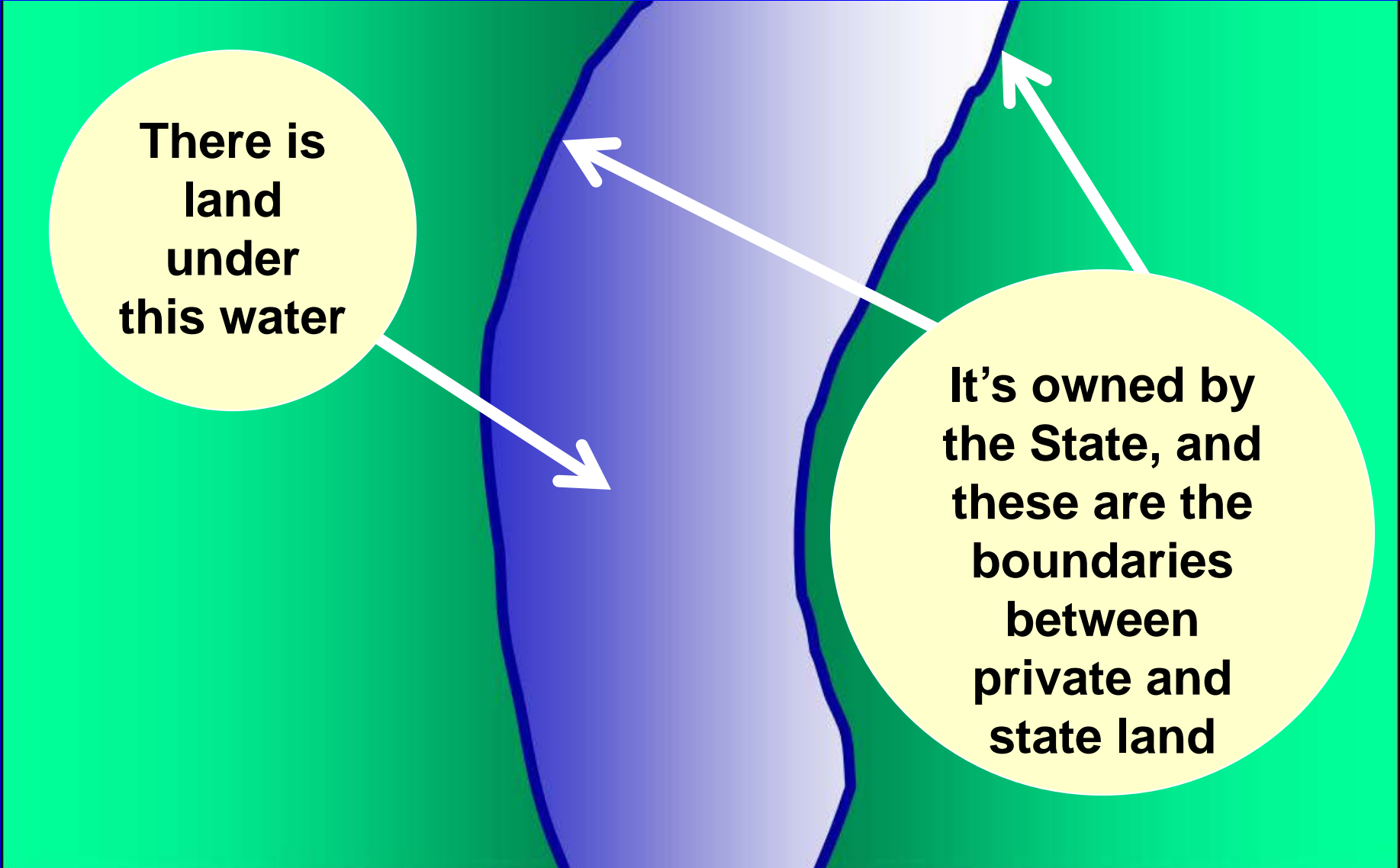
TITLE exception - riparian land

- ❖ *Navigable* water flows through, covers, or adjoins the insured property
- ❖ Can delete if water adjudicated non-navigable
- ❖ Applies even if stream is "boundary"
- ❖ Applies to *current, former or future bed*

STATE OWNERSHIP

**There is
land
under
this water**

**It's owned by
the State, and
these are the
boundaries
between
private and
state land**



3 River or Stream Boundary

Any question that may arise due to shifting or change in the course of the *[insert the name of the body of water]* or due to the *[insert the name of the same body of water]* having shifted or changed its course.

BOUNDARY (survey) exception
- applies to *riparian* land

3 River or Stream Boundary

BOUNDARY exception

- ❖ Similar to the *general survey exception* in *standard coverage policies*
 - ❖ But never deleted even in *extended coverage title policy*
- ❖ Applies when description ties to either the thread or the bank of a river, stream, brook, creek, etc.
- ❖ *All water* - Navigable or non-navigable

3 River or Stream Boundary

Doesn't make any difference
whether the boundary is
the center of the river or
stream, or the high water
mark

3 River or Stream Boundary

- ❖ If change in river is
 - ❖ natural but *avulsive* (sudden), and/or
 - ❖ man-made - then:
- ❖ Original (not current) location of river may be property boundary
- ❖ Land might no longer touch the water, or
- ❖ The water could be
 - ❖ farther away from the property, or
 - ❖ entirely within the property lines

3 River or Stream Boundary

- ❖ If change in river is gradual
- ❖ Boundaries of parcels on either side of the river may *shift* with the movement of the river
- ❖ Insurer will not insure
 - ❖ exact location of the water, nor
 - ❖ whether it has moved or might move in the future, nor
 - ❖ the nature of any past movement

BOUNDARIES ON STREAMS

NON-NAVIGABLE STREAMS

REMEMBER - All water assumed navigable
unless court determines otherwise

- ❖ Even if
 - ❖ the body of water is not shown on the Government Survey, and/or
 - ❖ no meander lines were shown on that survey, and/or
 - ❖ the adjoining uplands not described as government lots
- ❖ So title insurance will presume State owns the bed

NON-NAVIGABLE STREAMS

- ❖ Boundary line between two properties divided by non-navigable stream
 - ❖ unless the descriptions clearly recite otherwise!
- ❖ is the thread of that stream
- ❖ Bed owned by the abutting uplands owners
 - ❖ whether or not it also constitutes a boundary between separate ownerships
- ❖ Not vested in the State of Washington

BUT -

You don't decide!

That's the reason
for the exceptions

Boundaries can change

Why?

Avulsion

Accretion

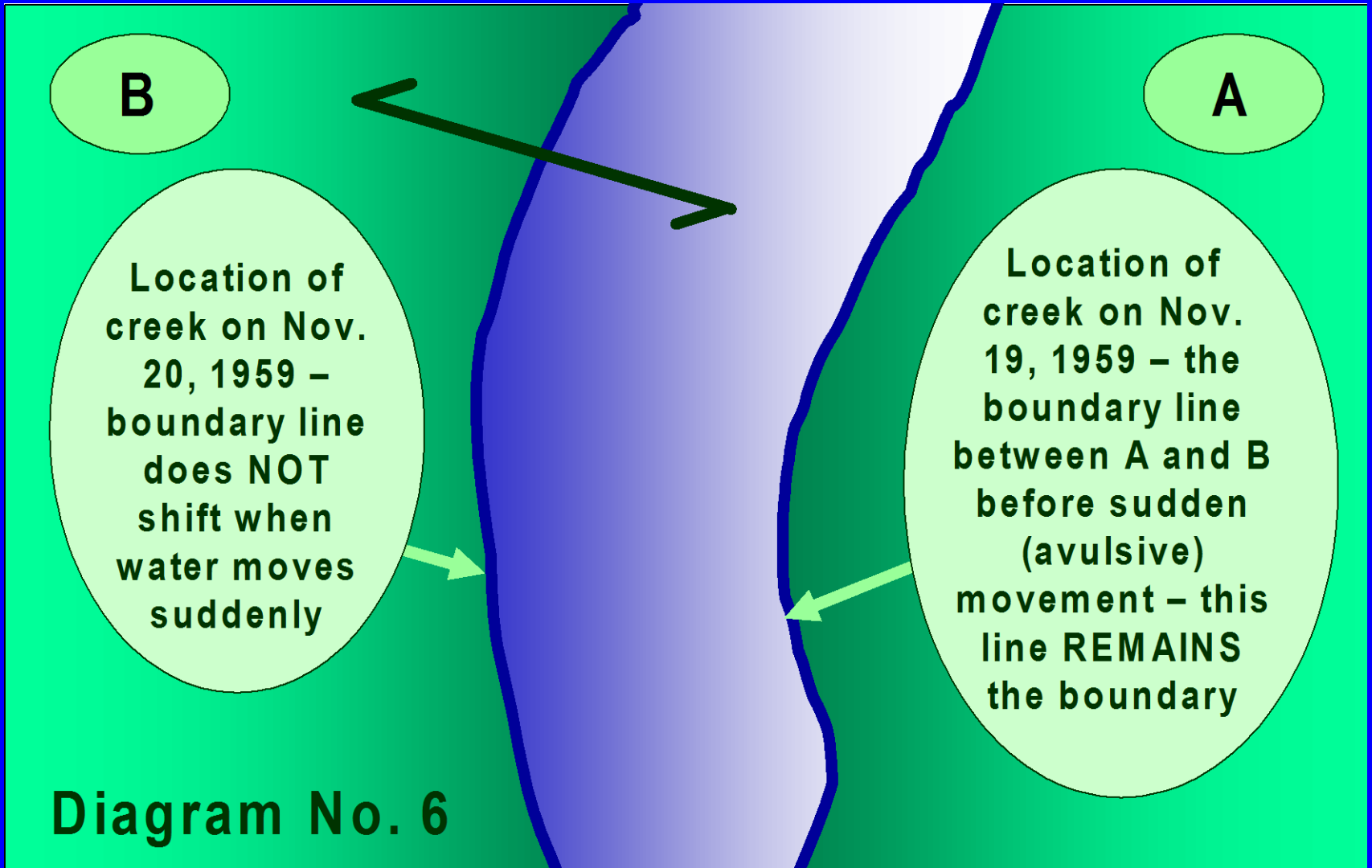
Reliction

Erosion

AVULSION

- ❖ Stream changes or shifts location *suddenly*
 - ❖ natural event (earthquake, landslide, etc.) or
 - ❖ man-made activity
 - ❖ construction of dam, or
 - ❖ re-channeling of river
- ❖ the property lines normally do not shift
- ❖ Each owner continues to own to the original location of their property boundaries
- ❖ See Diagram No. 6.

SUDDEN CHANGE



AVULSION

EXAMPLE

- ❖ Dam construction covers land with water
 - ❖ Land must be
 - ❖ conveyed by the owner
 - ❖ fee or
 - ❖ easement
 - ❖ or taken by condemnation.

AVULSION

- ❖ No title insurance as to
 - ❖ boundaries between uplands and submerged lands, nor
 - ❖ Title to exposed land, nor
 - ❖ whether movement avulsive or gradual
- ❖ This (no title insurance) is the same as with accretion or reliction

Speaking of Avulsion...



THE LAKE WASHINGTON CASE

Lake Washington level
dropped about 10 feet when
the Government Locks, the
Ship Canal and the Montlake
cut

Who owned exposed land?

THE LAKE WASHINGTON CASE

One possibility:

- ❖ Permanently exposed lands
uplands claimed by
 - ❖ abutting upland owner -
extension of the *uplands*, or
 - ❖ State (as former owner when
submerged)

THE LAKE WASHINGTON CASE

Alternatively possibility:

- ❖ Lands were extension of existing *shorelands* owned by
 - ❖ upland owner if shorelands earlier conveyed by the State, or
 - ❖ State, even if other shorelands already conveyed to upland owner

THE LAKE WASHINGTON CASE

Court:

- ❖ Upland owner who owned shorelands prior to the lowering of the lake automatically entitled to the ownership of the new *shorelands* created by lowered water level as a true *riparian* owner

But:

- ❖ Upland owner who did not also own the abutting shorelands limited to the original line of high water
- ❖ Those relicted lands owned by the State

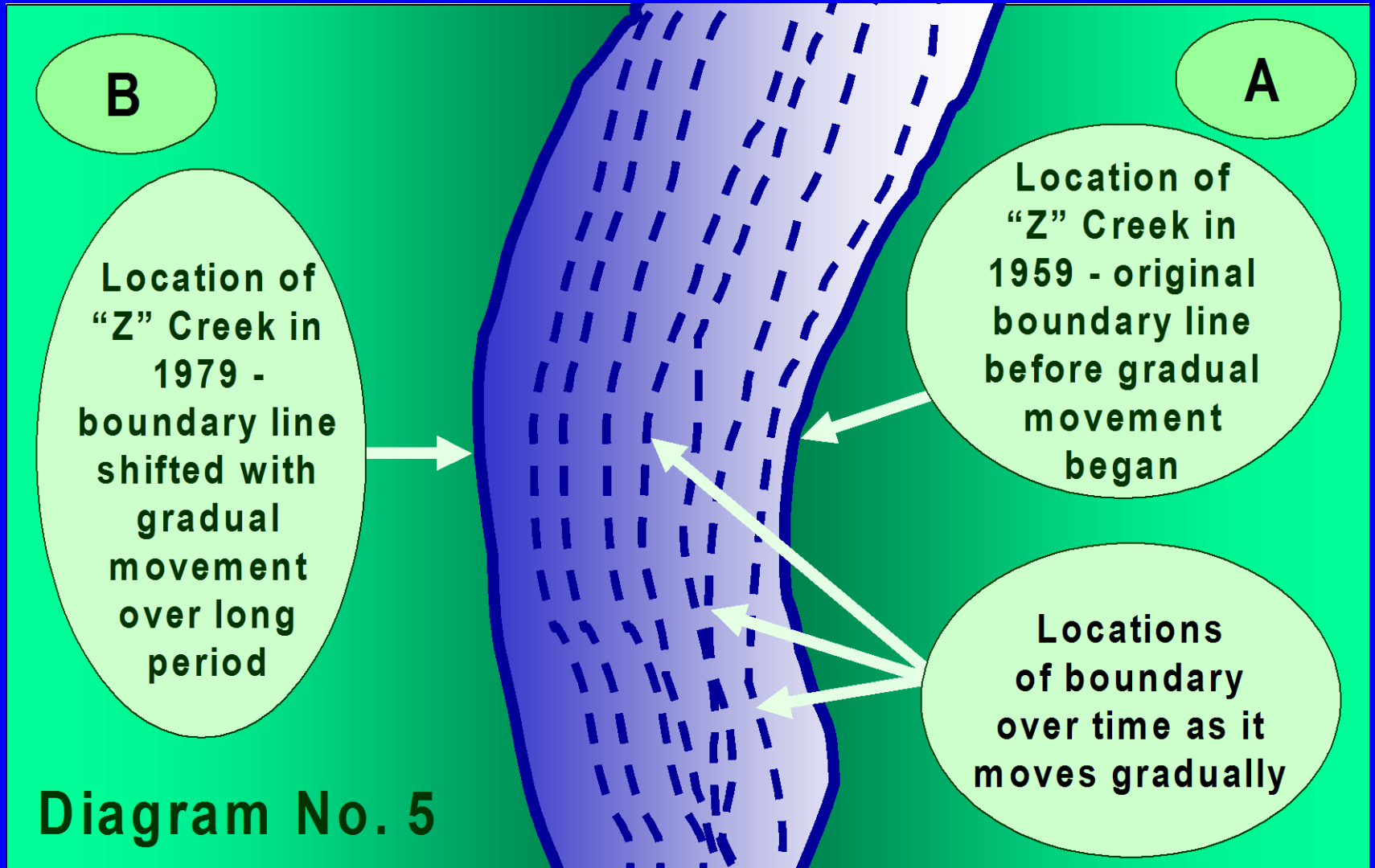
ACCRETION AND RELICTION



ACCRETION AND RELICTION

- ❖ BOTH: Gradual shift in boundary stream location changes boundary between two parcels
- ❖ River or stream (navigable or non-navigable) could
 - ❖ shift its location
 - ❖ have already shifted its location
- ❖ So: can't be insured
- ❖ See Diagram No. 5.

GRADUAL CHANGES



ACCRETION AND RELICTION

❖ *Accretion*

- ❖ build-up of soil deposited on one bank forces the water to move, or shift, its location

❖ *Reliction*

- ❖ movement of water
 - ❖ erosion of land on one bank
- ❖ exposes formerly submerged land on the other bank

ACCRETION AND RELICTION

Same natural processes apply to

- ❖ tidelands on
 - ❖ the Ocean
 - ❖ Puget Sound or
 - ❖ rivers emptying into them
- ❖ and shorelands on a river or lake

ACCRETION AND RELICTION

General rule

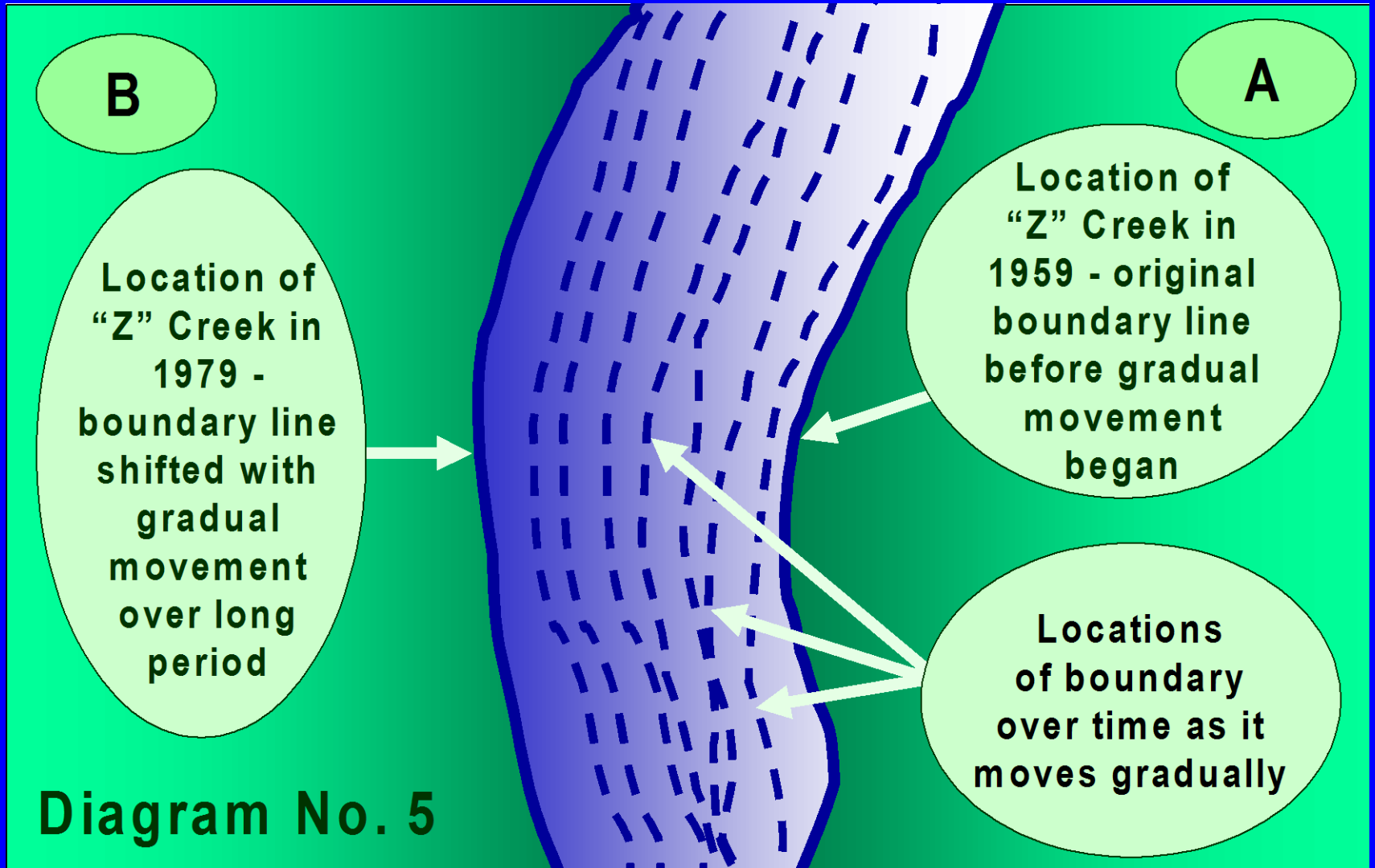
- ❖ *Accretion or reliction shifts the boundary between the upland parcel and the submerged land*
 - ❖ *Thus, newly added or exposed land becomes part of upland parcel*
- ❖ *BUT - accretions, even abutting previously sold submerged lands, are claimed by the State (willing to sell to the abutting private owner)*

ACCRETION AND RELICTION

- ❖ No title insurance as to
 - ❖ boundaries between uplands and submerged lands, nor
 - ❖ Title to exposed land, nor
 - ❖ *whether movement was avulsive or gradual*
- ❖ Even newly permanently created or exposed lands are claimed by State
- ❖ Theory: Title of the underlying submerged land was vested in the State, so accretion or reliction does not divest that title

EXAMPLES OF
CHANGES IN
RIVER & CREEK
BOUNDARIES

GRADUAL CHANGES



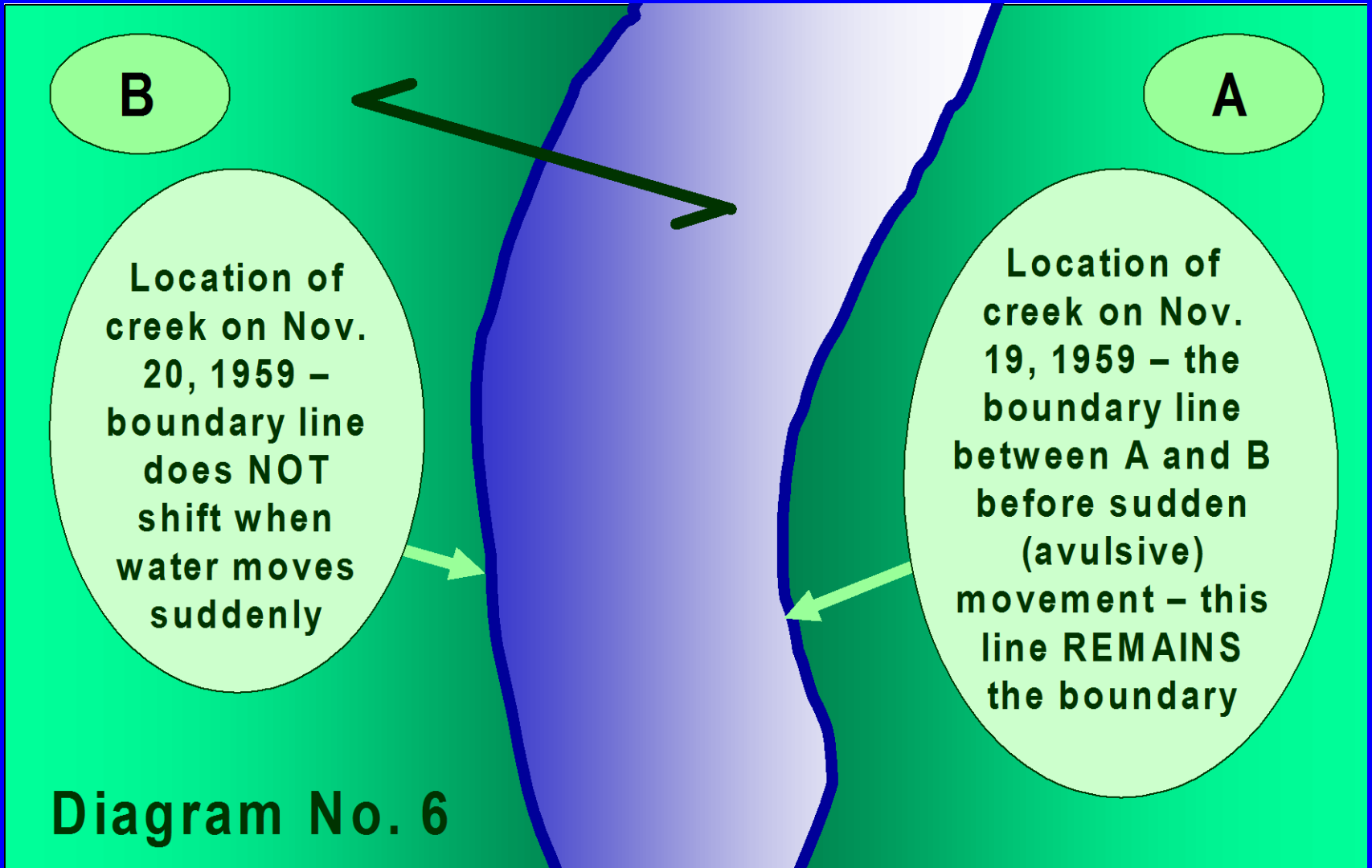
GRADUAL CHANGES

BOUNDARY BETWEEN PARCELS
A & B PROBABLY MOVES

AND

TITLE PROBABLY CHANGES TO
MATCH NEW LOCATION OF
THAT BOUNDARY

SUDDEN CHANGE



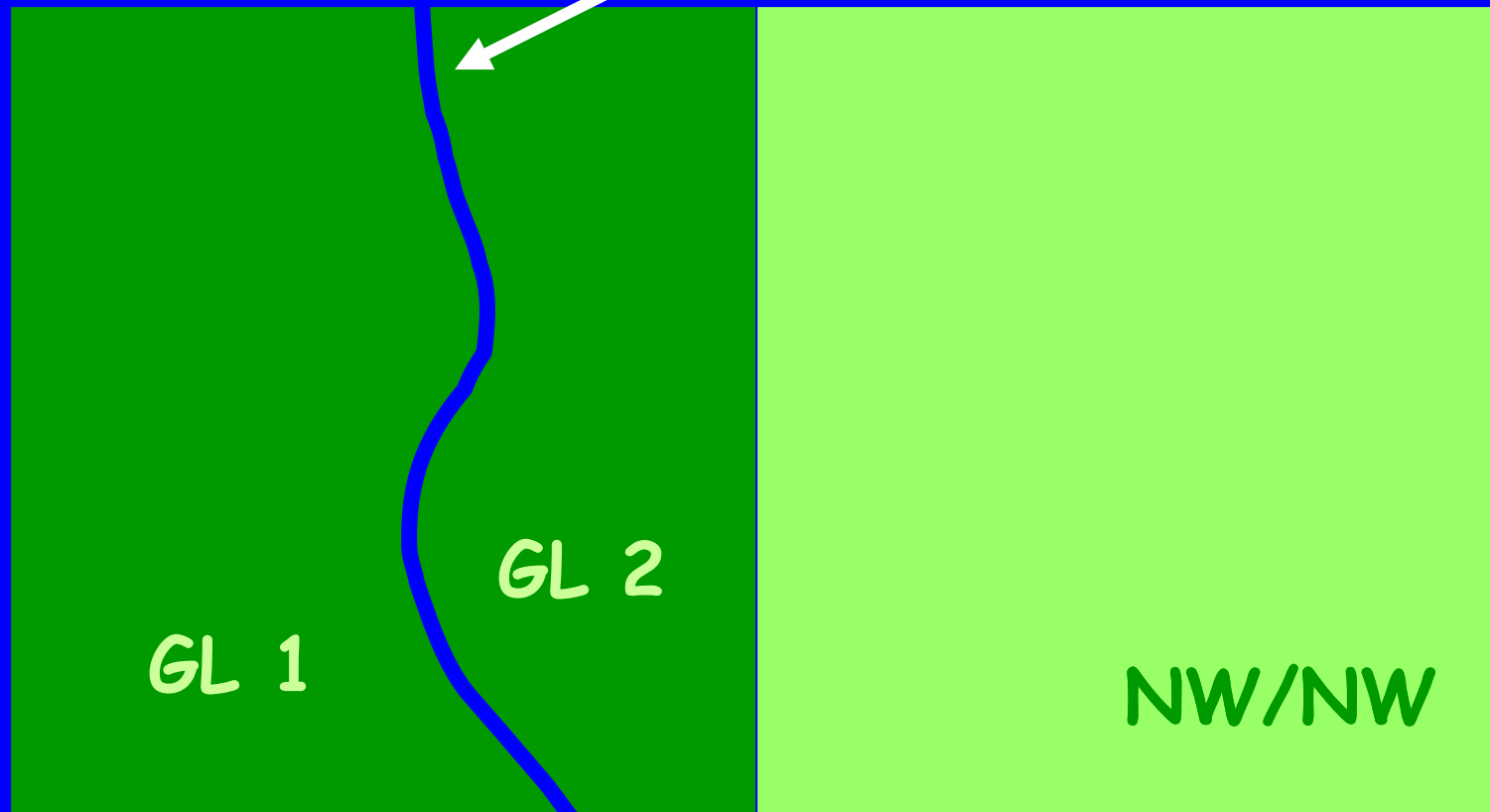
WEIRD

- BUT REAL -

CHANGES

What if a river does the
following?

Original Location



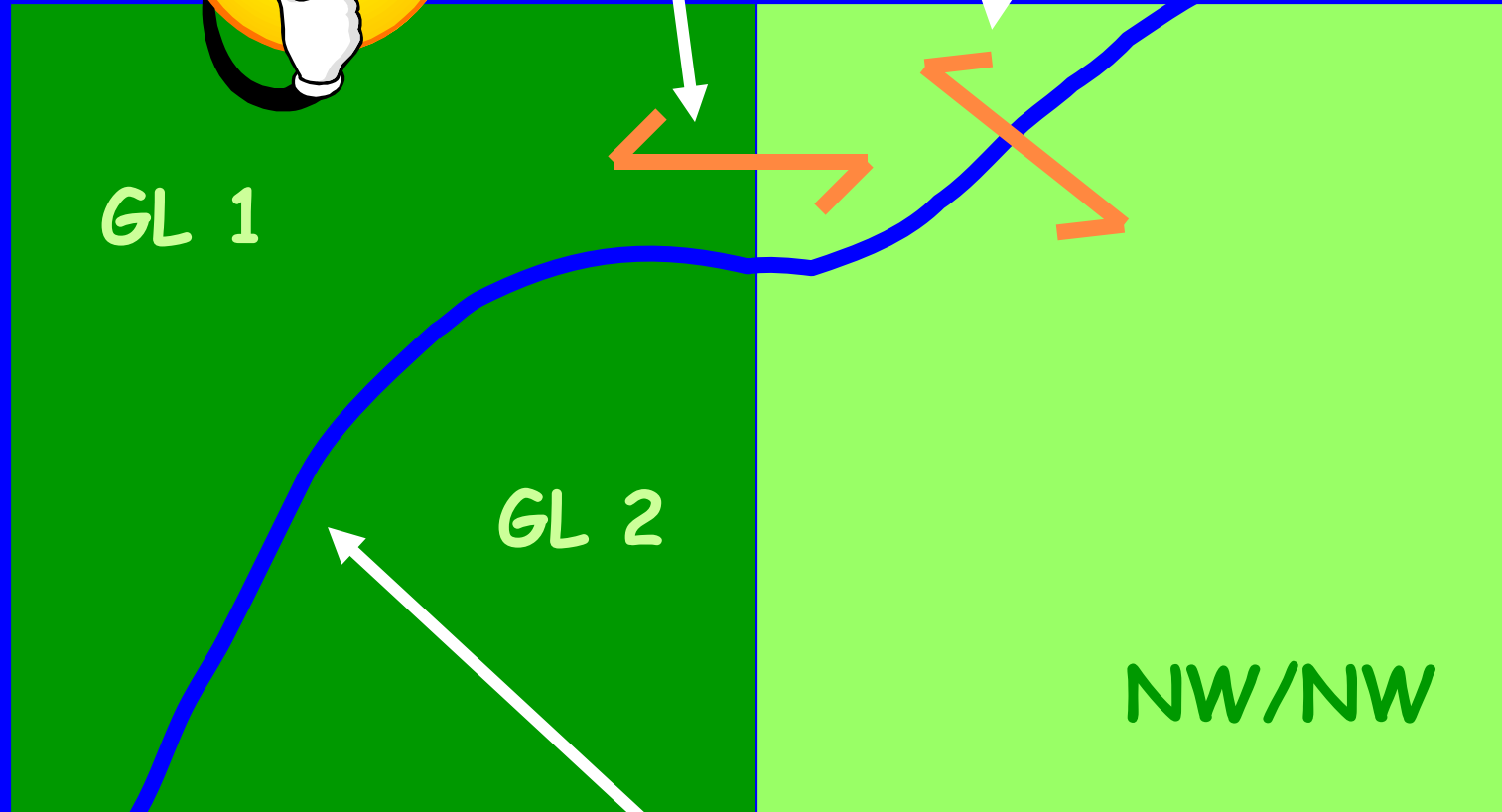
GL 1

GL 2

NW/NW

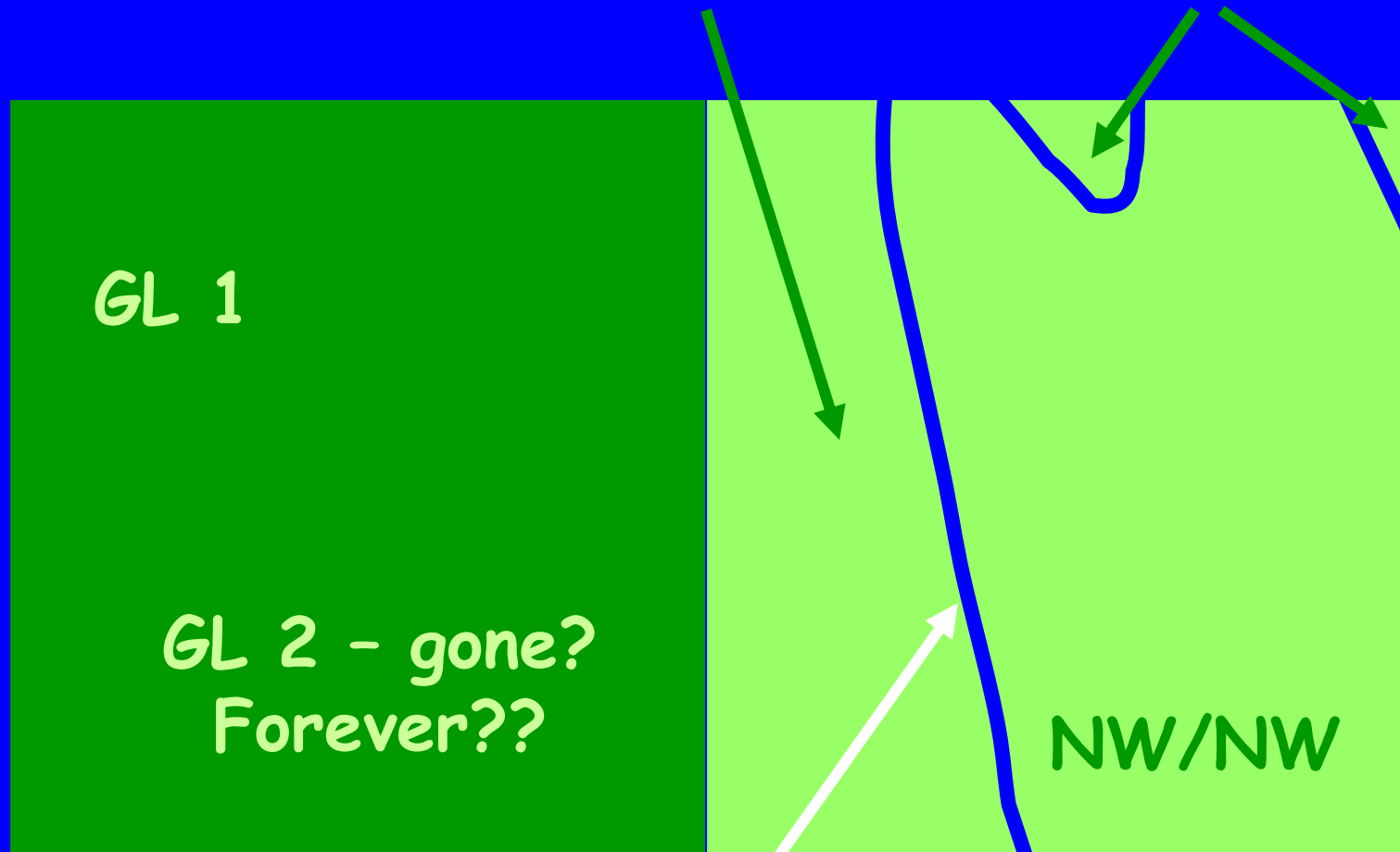


GL 1 - or NW/NW?



New Location (gradual)

GL 1? Or GL 2? or NW/NW? or w/adjoining?



New Location (gradual)

GL 1? GL2? NW/NW?

GL 1 - Gone?
Forever? Or
way east?

GL 2 - gone?
Forever? Or
way east?



NW/NW - gone?
Forever?? Or
way east?

New Location (gradual)

You can't go back again...or can you?



Newer - new many years later - location
(gradual)

4 Lake, Sound, Bay or Ocean Boundary

Any questions that may arise due to shifting or change of the line of high water of the *[insert the name of the body of water]* or due to the *[insert the name of the same body of water]* having shifted or changed its line of high water.

BOUNDARY (survey) exception -
applies to *riparian* or *littoral* land

4 Lake , Sound, Bay or Ocean Boundary

BOUNDARY (survey) exception

- ❖ Not removed for *extended coverage* title policies
- ❖ Similar to Exception 3 (rivers) but usually because of *reliction* and maybe *accretion*
- ❖ Shown if land bounded by lake or similar body water

4 Lake , Sound, Bay or Ocean Boundary

- ❖ Applies to
 - ❖ *uplands only, or*
 - ❖ *uplands with submerged lands (shorelands), or*
 - ❖ *submerged lands (shorelands) only*
- ❖ *Whether or not the description mentions body of water*

5 Lateral Boundaries of Submerged Lands

Any question that may arise as to the location of the lateral boundaries of the [tidelands] [shorelands] described herein.

BOUNDARY (survey) exception -
applies to tidelands or shorelands that
are included in the legal description

5 Lateral Boundaries of Submerged Lands

BOUNDARY (survey) exception

- ❖ Added as special exception if *tidelands* or *shorelands* are in description
- ❖ Example:
 - ❖ "...together with the tidelands of the second class adjoining."

5 Lateral Boundaries of Submerged Lands

- ❖ Assessor's maps or surveys not reliable
- ❖ Exception can be deleted if
 - ❖ adjoining owners mutually establish boundary, or
 - ❖ submerged lands platted if plattor owned all
 - ❖ State platted *tidelands* or *shorelands*.
- ❖ Caution with older plats

LATERAL LINES

- ❖ No title insurance on location of lateral lines unless
 - ❖ court decree establishes lines
 - ❖ presumably confirming the title of each owner on either side of the lines, or
 - ❖ a plat created by a common owner, or
 - ❖ an agreement between adjoining owners establishes lateral boundaries
 - ❖ including mutual conveyance between the owners confirming title according to agreed upon boundaries

LATERAL LINE
BOUNDARIES ON
LAKES

NON-NAVIGABLE LAKES

REMEMBER - All water assumed navigable
unless court determines otherwise

- ❖ Even if
 - ❖ the body of water is not shown on the Government Survey, and/or
 - ❖ no meander lines were shown on that survey, and/or
 - ❖ the adjoining uplands are not described as government lots
- ❖ So title insurance will presume the State owns the bed

NON-NAVIGABLE LAKES

- ❖ As to the beds of *known non-navigable lakes*:
 - ❖ they are submerged lands
 - ❖ but are not shorelands, and
 - ❖ State has no interest (title) in them
- ❖ Such beds owned by the adjoining property owners

NON-NAVIGABLE LAKES

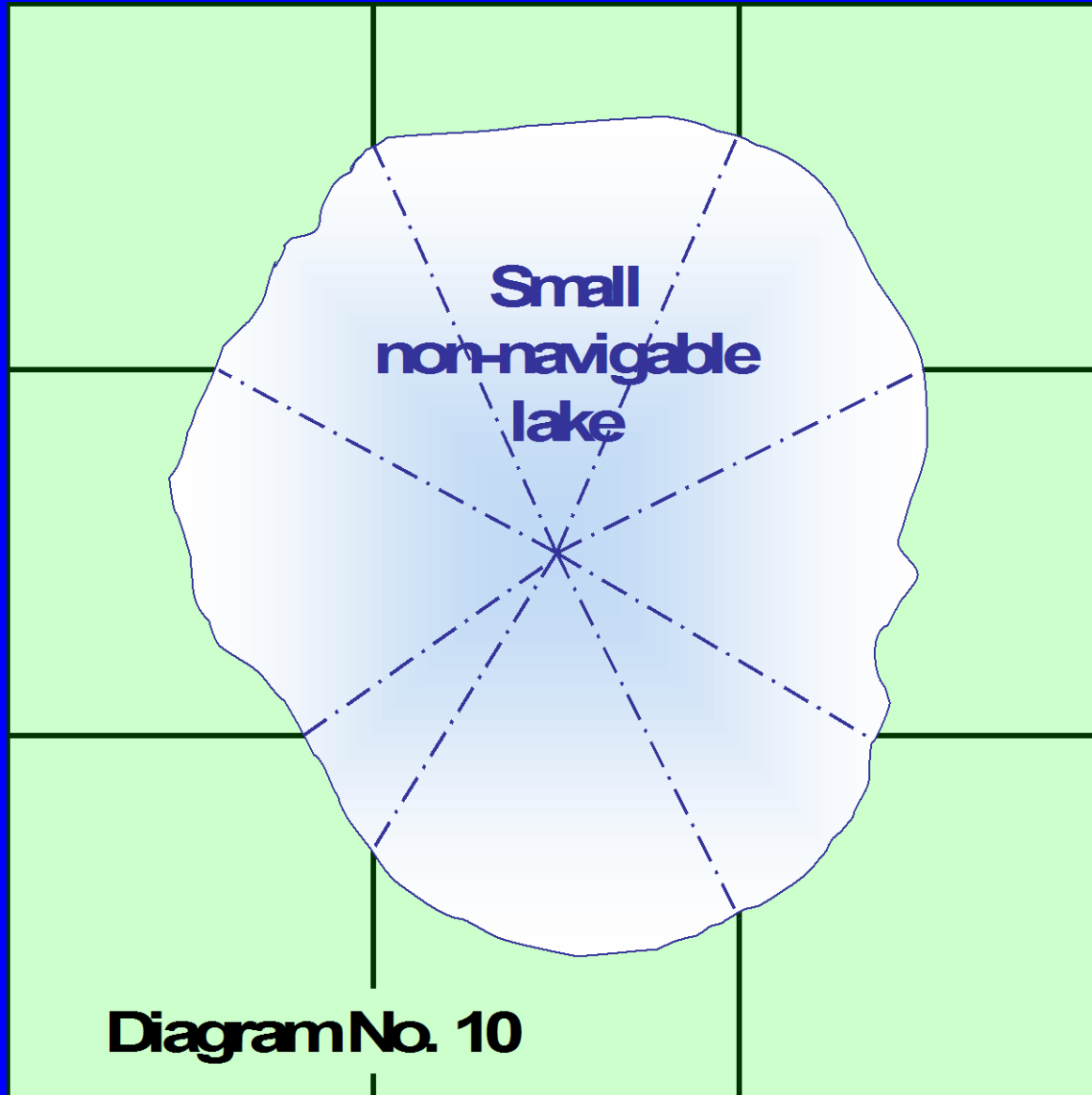
- ❖ If all land surrounding a small, non-navigable lake owned by one person
 - ❖ that person also owns the bed of the lake
- ❖ If multiple owners around the lake
 - ❖ the rules for *lateral lines* are not clearly drawn by court decisions
 - ❖ as they have been for tidelands and shorelands

NON-NAVIGABLE LAKES

Property owners may

- ❖ agree to each own an undivided interest in the entire lake, or
- ❖ divide the bed of *round* lakes by making pie-shaped connections to the center of the lake
 - ❖ Each with title to abutting pie-shaped parcel of the bed
- ❖ See Diagram No. 10
- ❖ BUT AGAIN: No title insurance as to the location of *lateral lines*

LATERAL LINES - Round Lake



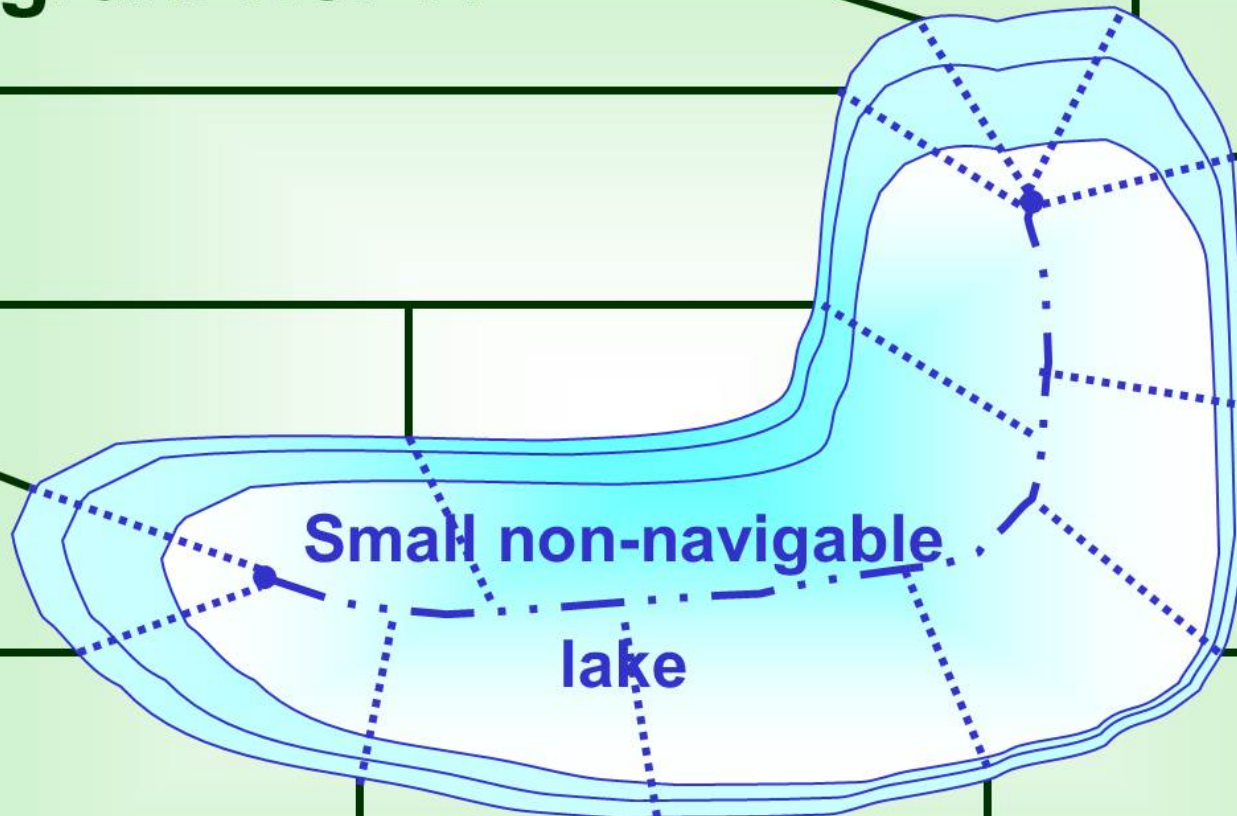
NON-NAVIGABLE LAKES

Property owners may

- ❖ Divide the bed of non-round lakes in common sense allocation of beds
 - ❖ using center lines along the long lengths of the lake
 - ❖ Example: See Diagram No. 11
- ❖ BUT AGAIN: No title insurance as to the location of *lateral lines*

LATERAL LINES - Odd-Shaped Lake

Diagram No. 11



LATERAL LINES

- ❖ How do property lines extend out into owned shorelands?
 - ❖ These boundaries commonly called *lateral lines*
- ❖ may have no relationship to the boundaries of the upland parcel
- ❖ Owner cannot unilaterally project the upland boundaries out into the shorelands

LATERAL LINES

- ❖ No statutes defining the direction of lateral lines through shorelands
- ❖ No helpful language in the original deeds from State
 - ❖ State deeds simply convey all shorelands

Example:

"...all shorelands of the second class lying in front of and abutting Government Lot 3, Section [], Township [] North, Range [] East, W.M."

LATERAL LINES

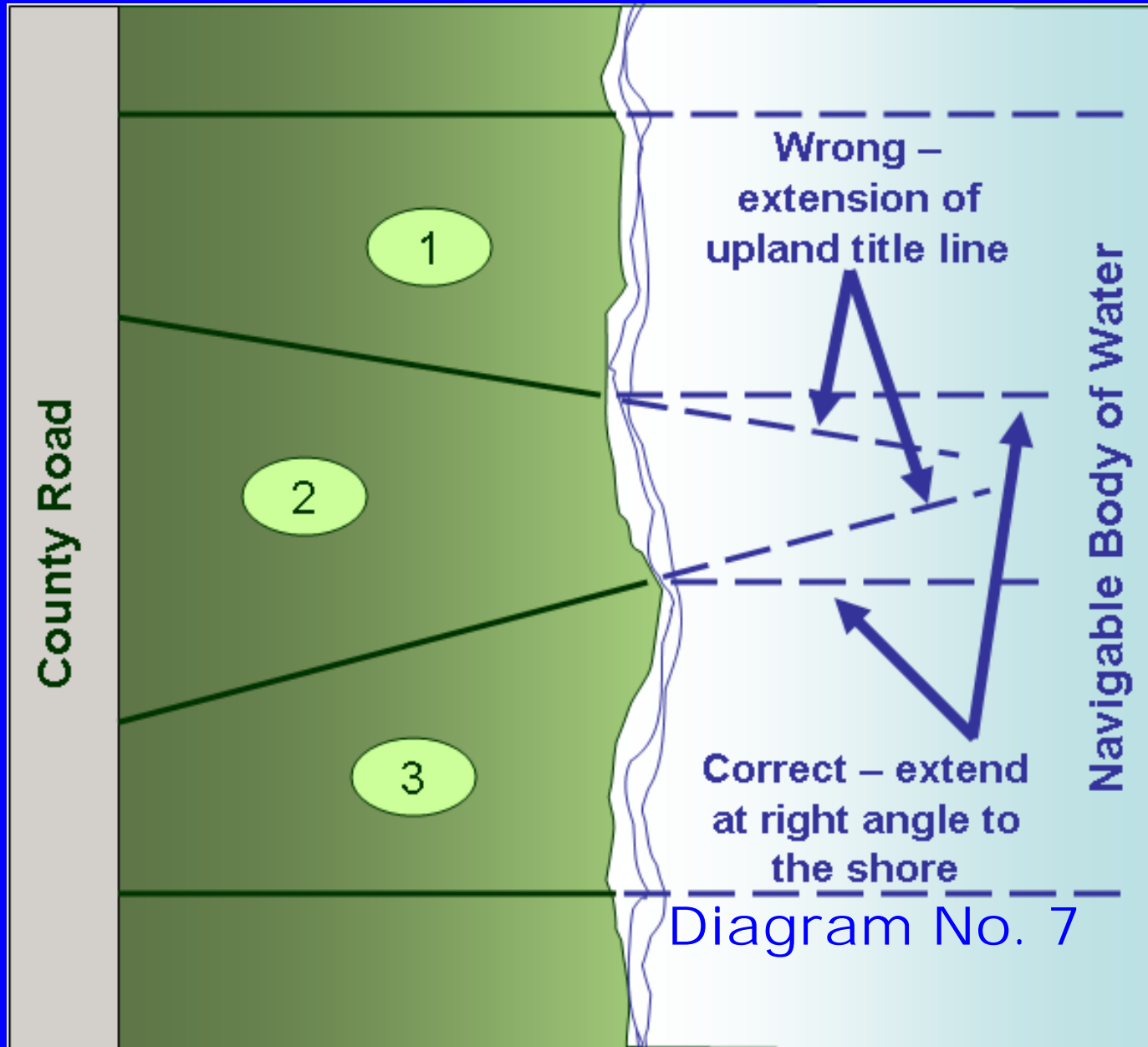
What rules *might* apply?

- ❖ Decisions by State Supreme Court interpreting word "*abutting*"

The basic rule

- ❖ beach is a relatively straight line
 - ❖ Lateral lines are projected into the water at right angles to the line of ordinary high water
- ❖ See Diagram No. 7

LATERAL LINES



LATERAL LINES - COVE

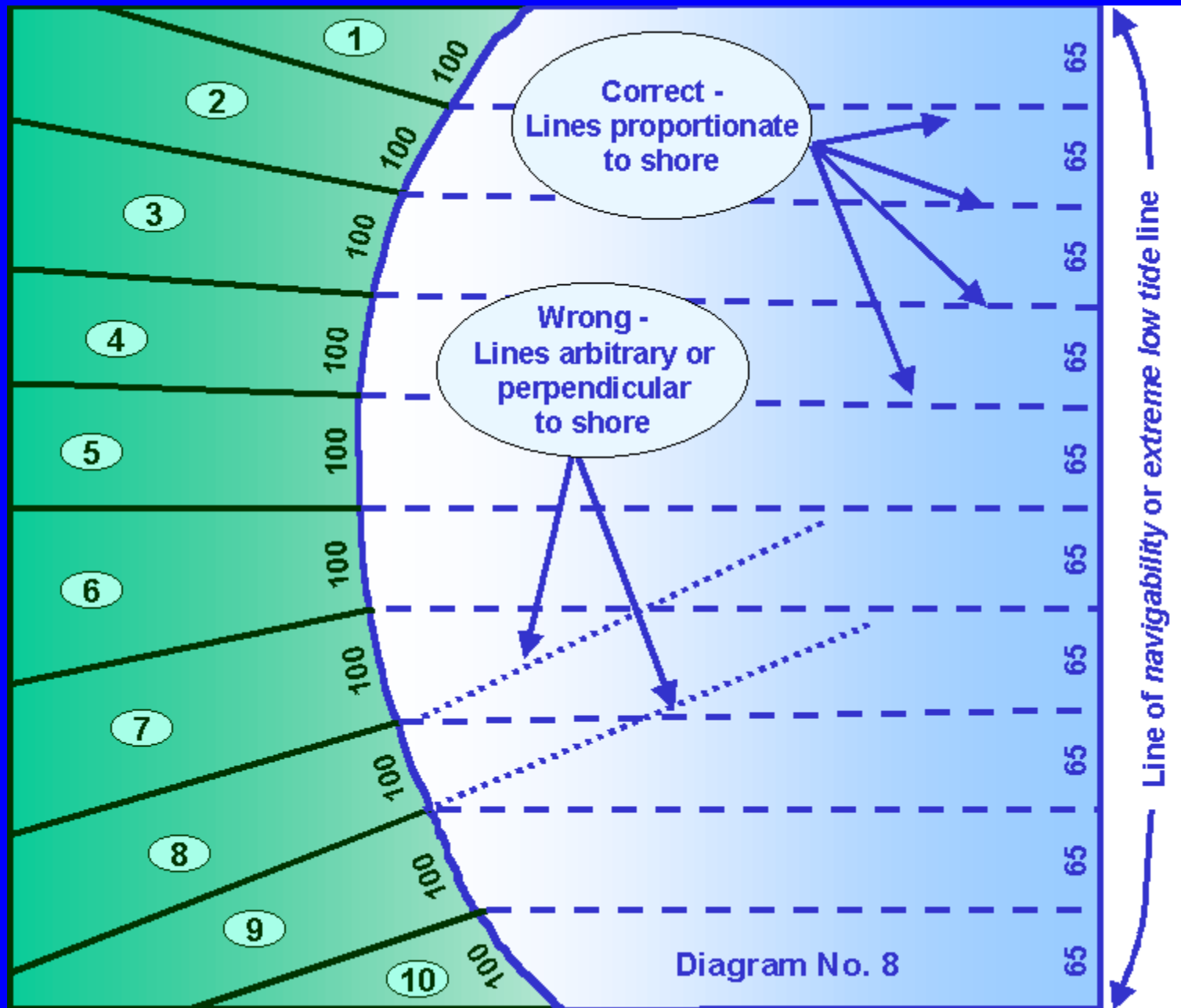
Different rule

- ❖ "Right angle" rule *is not* equitable division

Example:

- ❖ Connect property line at shore line to proportionate lengths of frontage at line of navigability
- ❖ See Diagram No. 8

LATERAL LINES - COVE



LATERAL LINES - PLAT

- ❖ Owner of submerged land can subdivide and delineate specific locations of the *interior* lateral lines in any manner
- ❖ Example in Diagram No. 9
- ❖ BUT exterior boundary lines (either end of entire submerged parcel) cannot be fixed without
 - ❖ agreement and
 - ❖ conveyanceinvolving adjoining submerged land owners

LATERAL LINES - PLAT

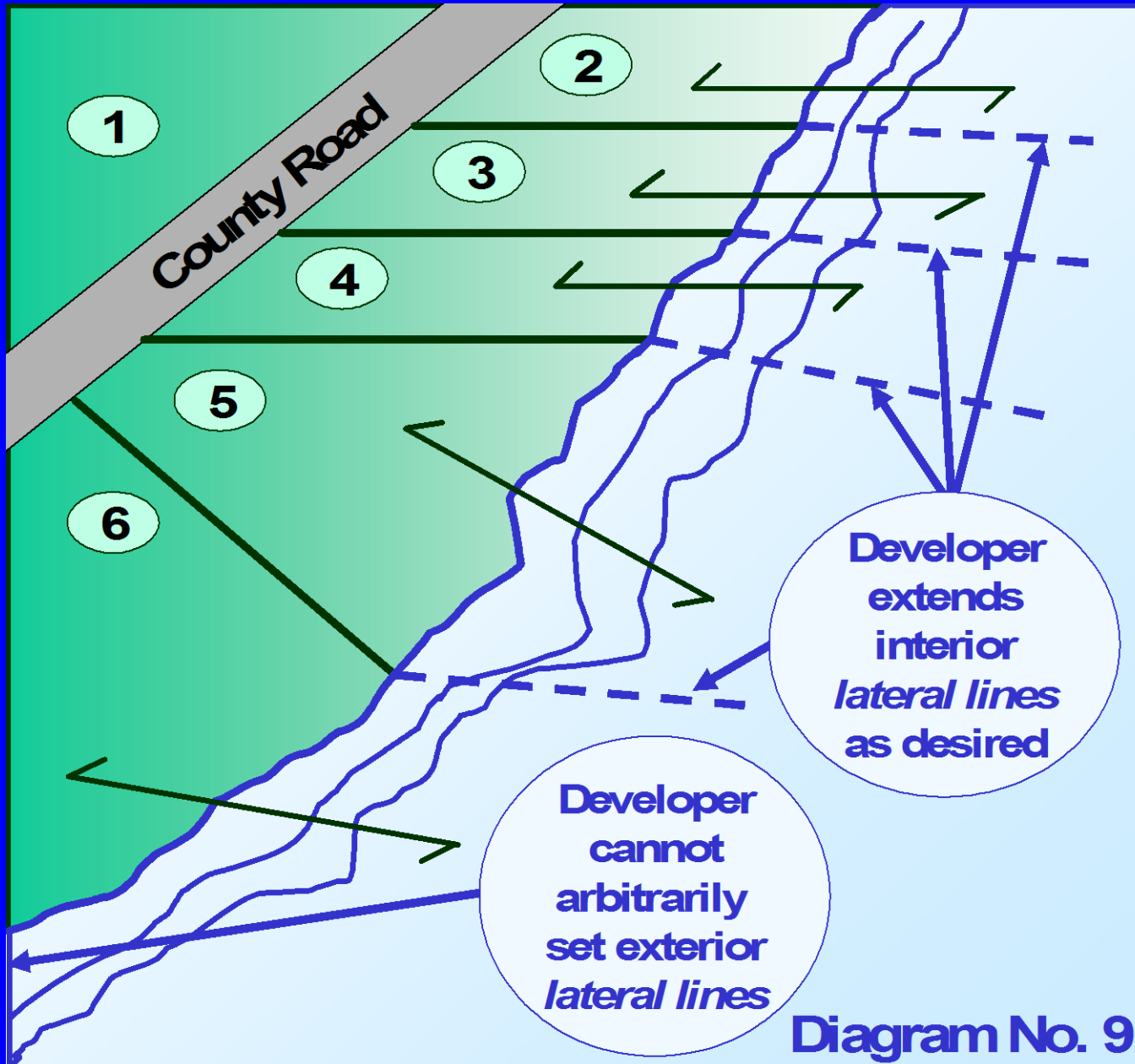


Diagram No. 9

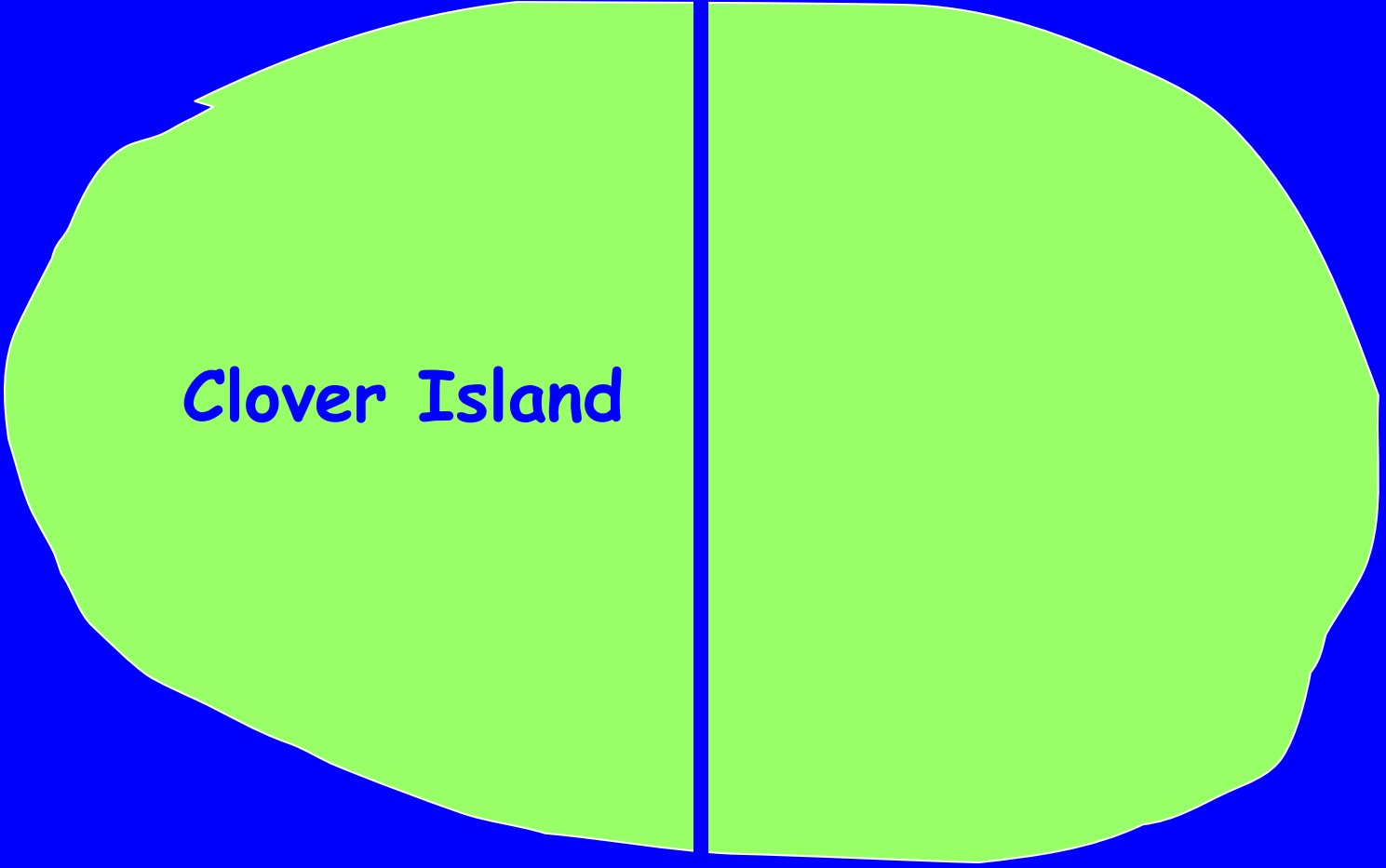
Islands



ISLANDS

- ❖ Present special problems - especially in *rivers* and *sloughs*
- ❖ Might be shown on the original Government Survey as *government lots*
 - ❖ Elusive boundaries
- ❖ Or might have been created after Government Survey
- ❖ Title presumed in State (bed of river navigable)
 - ❖ May not be possible to describe
 - ❖ constant accretion and reliction action

Section Line

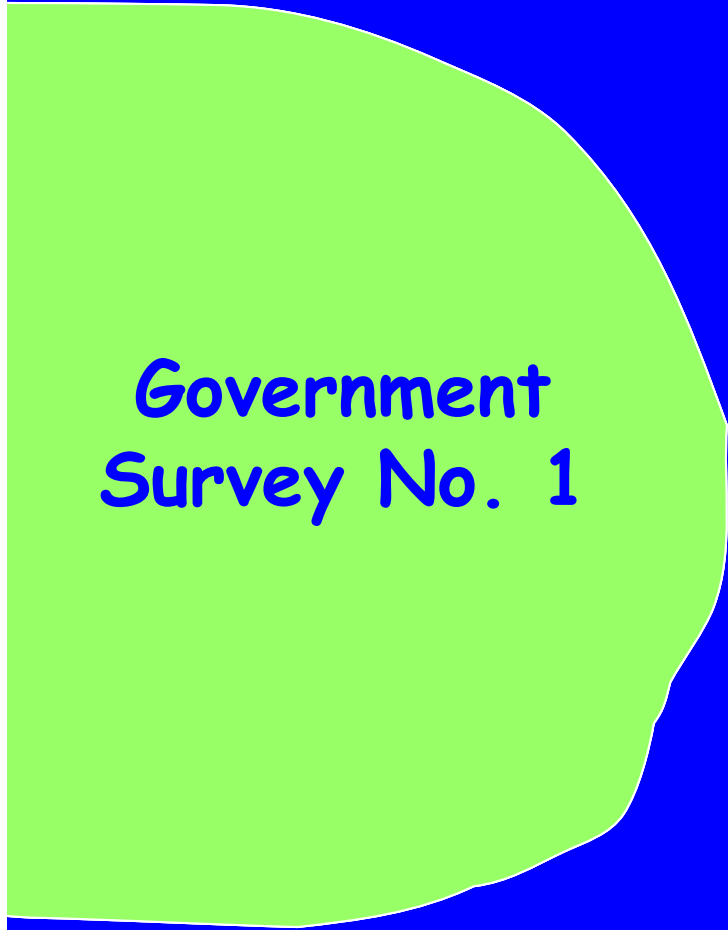


Clover Island

Section Line



**Government
Survey No. 1**



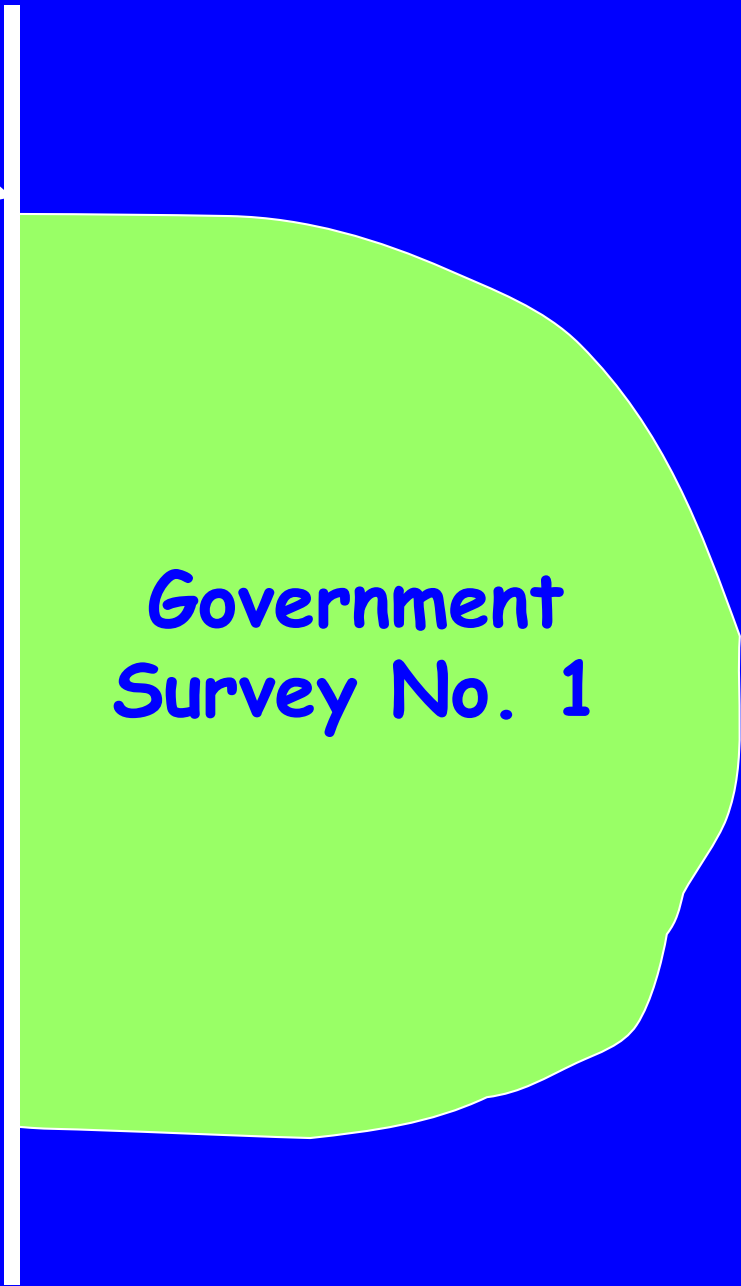
Section Line



**Government
Survey No. 2**

**Government
Survey No. 1**

**Where is the rest
of the island??**



ISLANDS

- ❖ Additional problems
- ❖ Dam built downstream
- ❖ Land condemned (*fee or easement*) for raising the river
- ❖ How is the "land" described?

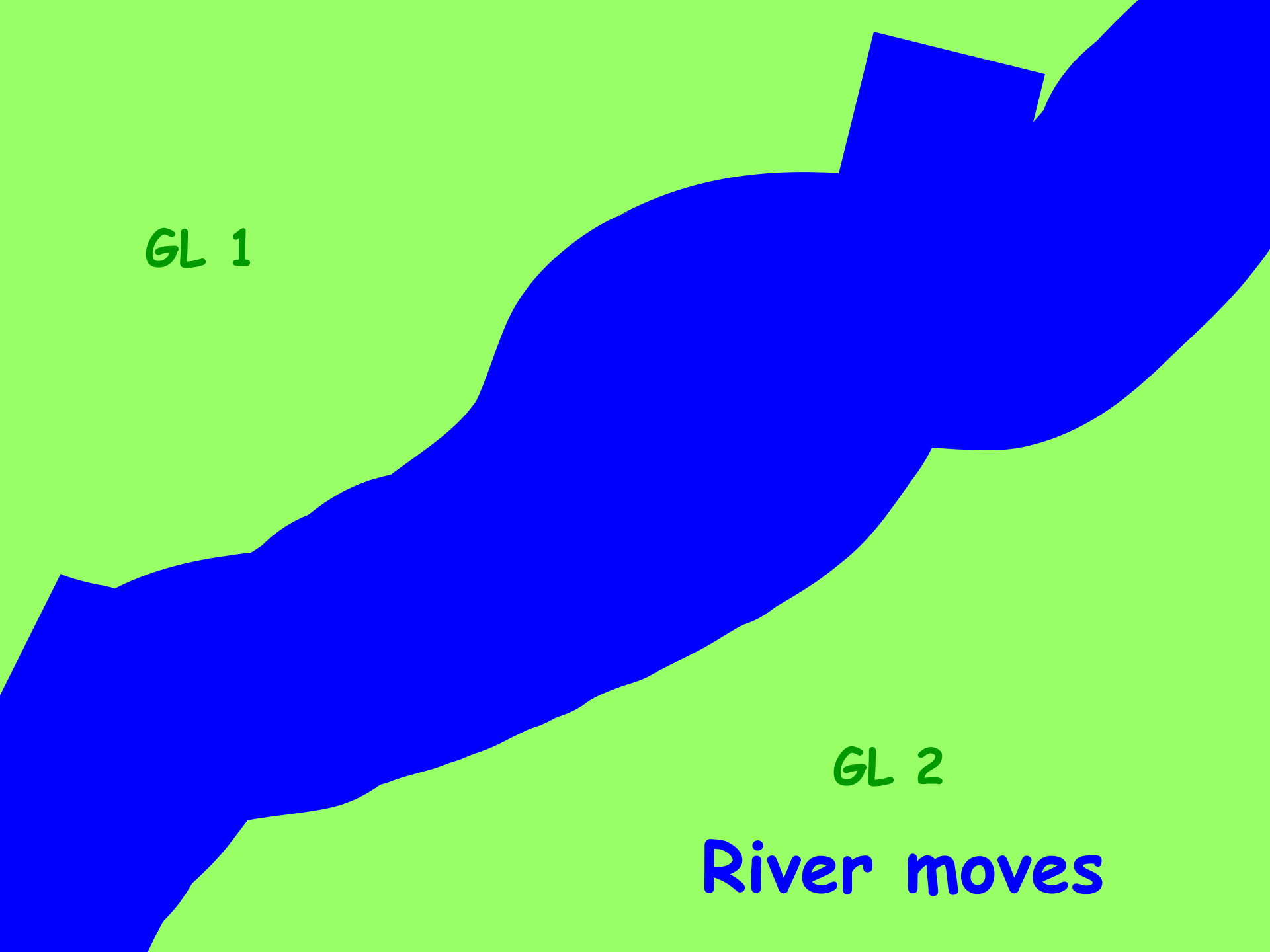
Water Level Lowers

GL 1



Which Gov Lot is the island in? 1 or 2?

GL 2



GL 1

GL 2

River moves

GL 1



Which Gov
Lot is the
island in? 1
or 2?

GL 2

River moves

Other exceptions:

6. Navigation Rights

7. Reservations and Reversions

8. Water and Water Rights

9. Certificates of Water Rights

6. Navigation Rights

The right of use, control, or regulation by the United States of America in exercise of power over **commerce** and navigation.

USE of land

- ❖ US (Corps of Engineers, for example) rights affect State owned beds of submerged lands
- ❖ Deleted only if body of water adjudicated non-navigable

7. Reservations and Reversions

Various rights (minerals, railways, flumes, waterways, etc.) reserved in State deeds of tidelands or shorelands

Provided for by statute

7. Reservations and Reversions

- ❖ Vary depending on the date of the conveyance
- ❖ Also *determinable fee* title of certain *oyster lands*
 - ❖ revert to the State if not used for intended purposes
- ❖ Shown where title is derived from the State

RESERVATIONS

- ❖ Prior to 1907
 - ❖ No reservations in State deeds
- ❖ Beginning June 11, 1907
 - ❖ Deeds reserve oil, gas, coal and minerals
- ❖ After June 7, 1911
 - ❖ Deeds reserve rights-of-way for
 - ❖ private railroads, skid roads, flumes, canals, water courses, other easements.

8. Water and Water Rights

Water rights, claims or title to water.

Relates to *ownership* of water
(e.g., the substance itself)

8. Water and Water Rights

- ❖ Relates to *ownership* of water (e.g., the substance itself)
- ❖ Water belongs to the public and its use is regulated by the State
- ❖ Title insurers do not determine rights to use water
- ❖ Shown as *general exception* in standard coverage
- ❖ Added as *special exception* in an extended coverage

8. Water and Water Rights

- ❖ agricultural, farm, orchard or similar land
- ❖ unimproved land
- ❖ *riparian* land (e.g., *uplands* covered by or adjoining water)
- ❖ land served by a well or an impounded water facility
- ❖ land supplied by a water source other than domestic water service
- ❖ Can be deleted if above don't apply

9. Certificates of Water Rights

- ❖ No affirmative insurance of ownership of water rights
- ❖ Recorded water rights certificates issued by State of Washington
 - ❖ may indicate *easement* rights in favor of the holder of the certificate
- ❖ Exception for possible easement rights
 - ❖ as disclosed by the recorded certificate
- ❖ May be shown particularly for property at point of diversion

YOU'VE HEARD
THESE WORDS

What do they
mean?

NAVIGABILITY



NAVIGABILITY

Navigability determined on Statehood

November 11, 1889

THUS:

- ❖ *Current* appearance of a stream or lake (even dried up) does not determine status
- ❖ If navigable at the date of statehood, the bed (or former bed) was and is owned by the State



Definition?

- ❖ Common misconceptions

NAVIGABILITY Questions

1. Meander line = navigable

NOT SO!

- ❖ Meander lines laid out solely to comply with the requirements of the US Rectangular Survey Act
 - ❖ A lake of more than 25 acres, or
 - ❖ A stream of over 198 feet in width
 - ❖ *WHETHER OR NOT NAVIGABLE!*

NAVIGABILITY Questions

2. State has issued deeds for shorelands on a particular lake = navigable

NOT SO!

❖ DNR takes position:

❖ Supreme Court determination needed

❖ Has issued deeds for shorelands on *small* lakes and rivers before court determination

NAVIGABILITY Questions

3. A stream floats logs = navigable

NOT SO!

- ❖ A case does provide that stream which floats logs is navigable for that purpose

BUT

- ❖ it does not follow that stream is capable of commercial navigation
- ❖ the bed of such a stream does not necessarily belong to the State

NAVIGABILITY

Conclusion:

Title insurers presume:

- ❖ navigability of all water, and
- ❖ the bed therefore owned by the State
- ❖ unless a court determines otherwise



RIPARIAN RIGHTS



PRIVATE RIPARIAN RIGHTS

- ❖ *Riparian rights*

- ❖ *pertain to*

- ❖ *river*

- ❖ *stream*

- ❖ *littoral land*

- ❖ *borders*

- ❖ *ocean*

- ❖ *sound*

- ❖ *lake*

- ❖ *BUT - riparian commonly used for both*



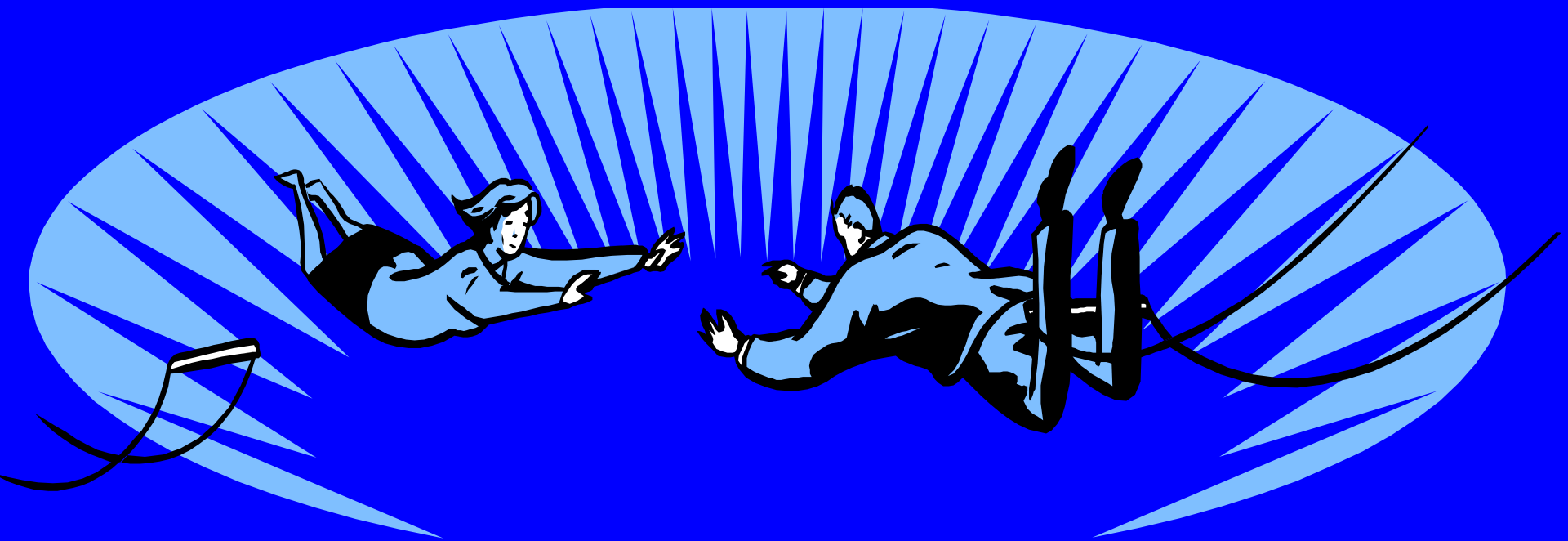
PRIVATE RIPARIAN RIGHTS

- ❖ Abutting upland owner is a *riparian* owner
 - ❖ In addition to any title to the bed
- ❖ Riparian owner has right, along with all riparian owners
 - ❖ to reasonable use of the surface of the lake
- ❖ Riparian rights of abutters are owned in common
 - ❖ Thus: each upland owner can use entire surface of lake
 - ❖ not just the area over the bed owned by the riparian abutter

RIGHTS OF THE PUBLIC

- ❖ General public has rights to use the surface of lake for recreational purposes
- ❖ Title insurers take exception to such rights, whether navigable or non-navigable

PUBLIC TRUST DOCTRINE



PUBLIC TRUST DOCTRINE

- ❖ *Public Trust Doctrine*
typically excepted from title coverages when the insured land
 - ❖ is submerged, or
 - ❖ abuts water

PUBLIC TRUST DOCTRINE

Government authority to

- ❖ protect the public interest, and
- ❖ regulate development, commerce, navigation and environmental protection
- ❖ essentially, zoning
 - ❖ shorelands
 - ❖ tidelands
 - ❖ *wetlands*
 - ❖ uplands within 200 feet of these lands