

## Land Procedure Accretions and Derelictions

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**NAME OF LAND  
PROCEDURE:**

Accretions and Derelictions

**APPLICATION:**

Applies to all land which has gradually accumulated out of the sea, river or lake and for which application can be made by an adjacent land owner:

**ISSUANCE:**

Assistant Deputy Minister, Tenures, Competitiveness and Innovation

**IMPLEMENTATION:**

Ministry of Forests, Lands and Natural Resource Operations

**REFERENCES:**

*Land Act* (Ch. 245, R.S.B.C, 1996)  
*Land Title Act* (Ch. 250, R.S.B.C, 1996)

**RELATIONSHIP TO  
PREVIOUS LAND  
PROCEDURE:**

This procedure replaces the previous Accretions and Derelictions procedures dated August 16, 2004.



Dave Peterson, ADM  
Tenures, Competitiveness and Innovation  
Ministry of Forests, Lands and Natural  
Resource Operations

MAY 26 2011

Date: \_\_\_\_\_

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**EFFECTIVE DATE:** June 1, 2011  
**AMENDMENT:**

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**FILE**

| <b>APPROVED AMENDMENTS:</b> |                         |   |
|-----------------------------|-------------------------|---|
| Effective Date              | Briefing Note /Approval | Summary of Changes:   |
| June 1, 2011                | BN 175892               | Policy and Procedure update to reflect reorganization of resource ministries April 2011 |
|                             |                         |   |

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## 1. PURPOSE

To provide direction for Provincial staff to assist the Surveyor General Division, Land Title and Survey Authority, in processing applications submitted for an accretion or dereliction pursuant to Section 95 of the *Land Title Act*.

This procedure is developed in conformance with the *Land Act*, *Land Title Act* and the Surveyor General Policy and Procedures Manual.

## 2. DEFINITIONS

**Accretion** means the gradual and imperceptible accumulation of land by natural causes from the sea, lake or river. Two types of deposition characterize accretion of land:

- by deposition of alluvium i.e. deposition of sand, silt, or other materials so as to create firm ground. The term alluvion applies to the deposit itself while accretion denotes the natural process;
- by dereliction as when the sea or waterbody recedes below its usual water level.

If the gain is gradual and imperceptible over time it goes to the owner of the adjoining land, but if it is sudden the land gained belongs to the Crown.

## 3. GENERAL PROCEDURE

Natural boundaries are ambulatory. Under common law, an upland owner owns any lawfully accreted land that may affix to the natural boundary of his property. Recording ownership of this land presents a problem however, as our land title system fails to recognise land owned under common law. To include lawful accretion within a title, an owner must proceed under Section 94 of the *Land Title Act* by making an accretion application to the Surveyor General Division.

### Natural Boundary

The *Land Act* defines Natural Boundary as "...the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself."

It is a principle of common law that a natural boundary is necessarily movable or ambulatory in nature, as a result of the action of wind and water from time to time. This principle has not been abrogated by statute law. As a natural boundary moves, the limit of ownership of a property having that natural boundary will move concurrently. A condition of the principle is that the movement of the natural boundary must be slow and imperceptible from moment to moment. The movement cannot be the result of sudden and dramatic action, nor can it be the result of firsthand human intervention.

### Tests for Accretion

- The land must have formed gradually and imperceptibly by the washing up of soil, sand or other substance so as to form firm ground;

- The growth of the land must be outward from the bank rather than a widespread emergence of the bed of the body of water;
- The soil and vegetation cover must have taken on upland characteristics.

**Side Lot Lines**

The location of the side lot lines of the accreted areas will vary and will be determined on a case by case basis by the Surveyor General Division. In general, if the trend of the shoreline is straight and the upland side lot boundaries are close to being perpendicular to the shoreline, then the sidelines will likely be produced to the present natural boundary.

**Application Process**

Applications regarding accretion/dereliction are accepted and processed by the Surveyor General Division. Refer to the Surveyor General Policy and Procedures Manual for detailed procedures regarding an application for accreted land.

The Surveyor General Division may ask Provincial staff to inspect an accretion application site and provide an opinion as to if the application area is natural and has taken on upland characteristics.