

Public Trust Doctrine in Other States

SCOTUS has clarified since *Illinois Central* that the scope of the public trust doctrine is determined by state law.

While “the State takes title to the navigable waters and their beds in trust for the public, . . . , the contours of that public trust do not depend on the Constitution. Under accepted principles of federalism, the States retain residual power to determine the scope of the public trust over waters within their borders, while federal law determines riverbed title under the equal-footing doctrine.”

PPL Montana, 565 U.S. at 604.

After a State takes title to the beds of navigable streams, it may “allocate and govern those lands under state law.” *Id.* at 591.

The overwhelming majority of states (~40) have expressly adopted the public trust doctrine to protect public uses of waterways.