

December 2, 2009

The Honorable Marcia Karrow, Chair
NJDEP Transition Committee
Office of the Governor-Elect
PO Box 022
20 West State Street
Trenton, NJ 08625

Dear Senator Karrow:

On behalf of the Marine Trades Association of New Jersey (MTA/NJ), I would appreciate your consideration, and that of Governor-elect Christie's DEP Transition Committee, of revising a serious New Jersey Department of Environmental Protection (NJDEP) mandate that will destroy the economic viability of the recreational boating community in New Jersey and marinas in particular.

The MTA/NJ, established in 1972, is a non-profit trade organization comprised of over 300 marine-related businesses dedicated to promoting and protecting the marine industry and waterways in the State of New Jersey. We represent hundreds of marinas, both small and large, working hard to sustain their businesses and prosper in the State of New Jersey. The recreational boating industry contributes over \$2 billion to the economy each year and these NJDEP mandates severely threaten its economic stability.

Specifically, the NJDEP promulgated rules on December 17, 2007 that force marinas to open their property to public access on a "one size fits all", 24/7 basis even when the business is closed. The rules fail to consider that such access is not safe, reasonable or financially feasible. For example, the rules require a deed restricted walkway across the entire waterfront on the property despite the configuration or operation of the marina. Deed restrictions can be enforced at any time and can severely affect a marina owner's ability to make changes and/or improvements, or to run their businesses. Parking and public accommodations would also need to be provided even if additional land had to be purchased.

The public access rule places serious mandates on marina owners; increases security concerns, reduces revenues and increases costs beyond the ability of most marinas to support. Marinas find themselves boxed in, as they can not expand or improve without revising their

facility for increased and unlimited public access. In fact, any request for work at a marinas, even those to improve the environment, would be rejected under this rule without the marina owner signing a deed restriction on their property. The current NJDEP standard (even without the rule in place) prevents the consideration of any compromise plan and prevents many projects that would otherwise provide a significant environmental benefit from moving forward. As a result, marinas will not be able to survive financially if they can not expand or maintain their properties.

Marinas are a unique and essential part of our local waterfront communities that already provide an accessible service to the general public. They provide public boat-ramps, fuel service, supplies, slips, restaurants, boat maintenance, fishing access and more. They provide the important boating infrastructure and services that allow people seeking recreation on or near the water to safely begin, enjoy and end their excursions. By definition, a marina already provides and preserves public access to the water. In order to do so, however, marinas must be able to reasonably control and manage their property. The public access regulations greatly undermine this ability. Moreover these regulations result in a massive taking of land from small business owners who paid for, maintained and paid taxes on the affected land.

As you may recall, the New Jersey Legislature intervened in this egregious matter by unanimously passing a law to suspend the public access rules until December 31, 2010 (P.L. 2008, c. 82). The law requires that the Governor establish a "Public Access and Marina Safety Task Force" which would be required to review and make recommendations for an appropriate public access plan. Unfortunately, Governor Corzine never appointed the Task Force despite continuous requests and suggestions for members from the Association.

The moratorium on the regulations now has just over a year before it expires and without the Task Force we must rely on either a second Legislative intervention or, preferably, a new NJDEP Administration who is willing to listen to the concerns of small business owners to understand how their regulations will destroy a native New Jersey industry.

On behalf of the recreational boating community, I respectfully urge the Committee to make amending the NJDEP public access rule a major priority in the new Administration and NJDEP. I am available to meet with the Committee to provide greater insight into the specific economic damage the NJDEP regulations will cause marinas. In addition, I am providing for your review our letter to the NJDEP objecting to the regulations as it provides several specific areas of concern.

Thank you for your attention to these serious concerns. Do not hesitate to contact me with any questions or comments.

Sincerely,



Melissa Danko
Executive Director

Attachment