

## NJ Tidelands & Riparian Rights

Riparian lands are all lands that are currently and formerly flowed by the mean high tide of a natural waterway. Riparian lands are also referred to as Tidelands.

The State of New Jersey claims title to all Tidelands. Tidelands claims exist in 17 of 21 counties in New Jersey.

The existence of a Tidelands claim creates a cloud on the title to property. This can interfere with real estate transactions, mortgage lending, and title insurance.

Ownership and use issues related to Tidelands can be very complex. All stakeholders (property owners, buyers, sellers, mortgage lenders, real estate agents, title agents and insurers) should be aware of their rights as they challenge Tidelands ownership and regulatory laws.

**Riparian Grants** – This is essentially a buy-out the Tidelands claim held by the State. A Riparian Grant applies to filled and unfilled Tidelands. A property owner may pursue a Riparian Grant to gain clear title. Riparian Grants are not mandatory. Riparian Grants can contain conditions or exceptions, and they are not uniform.

**Riparian Leases** – A long term lease for NJ Tidelands that are currently flowed. New Jersey no longer sells Tidelands that are currently flowed. A lease may be pursued for proposed projects, past construction of homes over water, or large development projects.

**Tidelands License** – A short term rental agreement is required for use of currently flowed Tidelands. Docks, piers, boat lifts and dredging are examples of use that typically require a Tidelands License. A Tidelands License can also be used for formerly flowed Tidelands. Many factors should be considered to decide to pursue a Tidelands License over a Riparian Grant for formerly flowed Tidelands.

**Statements of No Interest** – A Statement of No Interest (SNI) is an official document issued by the State of New Jersey attesting to the fact that a particular property or area is free from all state Tidelands claims. It may be obtained for some properties as evidence that no such Tidelands claim exists. An SNI requires proof that the State of New Jersey has no Tidelands claim to that particular parcel.

Resolution of Tidelands claims can be complicated by other environmentally regulated deficiencies at the property. The NJDEP requires that any waterfront structures (e.g. bulkheads, piers, docks, boat lifts, and jet-ski ramps) be both permitted and licensed. A Tidelands License will not issue if the structure is not permitted or grandfathered.

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**Waterfront Development Permits** are required for waterfront structures (e.g. bulkheads, piers, docks, boat lifts, and jet-ski ramps) already in place and for new installations. Application to the NJDEP can be made for written determination that a pre-existing structure is grandfathered and no permit is required.

**Waterfront Development Permits** in certain environmentally protected zones may require mitigation. Forms of mitigation include creation or contributions to other protected areas, purchase of mitigation bank credits, preservation, or a land donation.

**CAFRA Permits** may be required for certain types of construction or development in an area regulated under the Coastal Area Facility Review Act. CAFRA regulates landward construction in designated CAFRA Zones.

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*Davison Eastman Muñoz & Paone, P.A. has over 30 years of experience helping to resolve Tidelands related issues. The firm has an extensive collection of shore maps and indexes dating back almost a century.*