

# FIRST NATIONAL BOATING FACILITIES CONFERENCE AND WORKSHOP

SHERATON ISLANDER INN

Newport, Rhode Island

October 14-16, 1977

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# PROCEEDINGS

PROGRAM

NATIONAL BOATING FACILITIES CONFERENCE AND WORKSHOP

October 12-14, 1977  
Newport, Rhode Island

Conference Sponsors: Boating Industry Associations (BIA)  
Sea Grant/NOAA Marine Advisory Service  
University of Rhode Island Marine Advisory Service  
New England Marine Advisory Service

Tuesday, October 11

7:00 P.M. Registration

8:00 P.M. Welcome to Newport Reception - BIA Host

Wednesday, October 12

8:00 A.M. Registration

9:00 A.M. Conference Opens: Sponsors' Welcome

Setting the Stage: Recreational Boating's Dynamic Growth - Jeff Napier, BIA, Chicago, Illinois

9:45 A.M. The Federal View: Who Controls the Shore, Controls Boating - Dallas Miner, Public Participation Coordinator, Office of Coastal Zone Management, NOAA, Washington, D. C.

10:25 A.M. Coffee Break

10:40 A.M. Wetland Protection vs. Facility Development - Brig. General Drake Wilson, Deputy Director, Civil Works, U.S. Army Corps of Engineers, Washington, D.C.

11:15 A.M. Recreational Boating: Sea Grant/NOAA Pushes a Sleeping Giant - Robert J. Shephard, Director, Marine Advisory Service, NOAA, Washington, D.C.

12 Noon Luncheon

1:30 P.M. The Federal View (cont.): Boating's Part in the National Urban Recreation Study - Cicly Kihn, Outdoor Recreation Planner, U.S. Bureau of Outdoor Recreation, Northeast Regional Office, Philadelphia, Pa.

2:00 P.M. Other Views: Public vs. Private Boating Facilities - Dr. Robert Ditton, Recreation and Parks Department, Texas A & M University, College Station, Texas

2:30 P.M. Boating Facilities: Use Patterns and Conflicts - Dr. Niels Rorholm, Department of Resources Economics, University of Rhode Island, Kingston, Rhode Island

3:00 P.M. Role of Private Enterprise in Planning Boating's Growth - Richard Palmer, Connecticut Marine Trade Association, Stratford, Connecticut; George Rounds, National Association of Engine & Boat Manufacturers; Charles Dickerson, Rhode Island Marine Trade Association, Apponaug, Rhode Island

4:30 P.M. Capacity Challenge for Recreational Boating: Land and Water - Roy Mann, Roy Mann Associates, Cambridge, Massachusetts

5:00 P.M. Recess

6:00 P.M. Reception - New England Marine Trade Association host

7:00 P.M. Conference Banquet

Thursday, October 13

8:30 A.M. Host State Day: Focus on Local Problem Solving. Managing Rhode Island's Boating Shore - John Lyons, Chairman, Rhode Island Coastal Management Council; Michael Collins, Vice President, Newport Shipyard, representing Rhode Island Marine Trade Association

9:10 A.M. Public Rights of Way - Coastal Resources Center, University of Rhode Island

9:30 A.M. Bay Island Park System - Deiter Hammerschlag, Division of Community Planning, Rhode Island Department of Natural Resources

10:15 A.M. Coffee Break

10:30 A.M. Boating Safety - Edward Bliven, Chief, Division of Boating Safety, Rhode Island Department of Natural Resources

10:50 A.M. Yachting in the Smallest State - Alan Remington, yachtsman

11:10 A.M. Rhode Island, the Ocean State - Leonard Panaggio, Director, Tourist Travel Division, Rhode Island Department of Economic Development

11:30 A.M. Luncheon

12:30 P.M. Field Trip: A bus tour to show you how Newport Harbor copes with peak boating capacities and blends tourism, boating, commercial fishing and industry. The tour features marinas, old and new; coastal parks that mix history, recreation and launching ramps; a visit to "The Breakers," historic mansion and cliff walk; and a tour of Pearson Yachts sailboat manufacturing plant.

5:00 P.M. Return to hotel

5:30 P.M. Clambake

7:30 P.M. Evening cruise on Narragansett Bay - reception on board hosted by Rhode Island Marine Trade Association

9:30 P.M.

Friday, October 14

9:00 A.M. Everything You Always Wanted to Know About Riparian Rights But Were Afraid to Ask - Francis Cameron, Marine Affairs Department, University of Rhode Island

- 9:30 A.M. Boating Facilities Information: Where Does the Boatman Go When He's Wondering Where to Go? - Ron Stone, BIA, Chicago, Illinois; James Falk, Parks and Recreation Department, Texas A & M University, College Station, Texas
- 10:15 A.M. Problems of Marina Design and Some Solutions - Clinton Chamberlain, President, C. A. Chaney, Inc., Hayes, Virginia
- 10:45 A.M. Impact of Federal Longshoremen's and Harbor Workers' Act - Dr. John Fitzgerald, Department of Finance, College of Business Administration, University of Rhode Island, Kingston, Rhode Island
- 11:15 A.M. Boating: Marine Promise - Susan Anderson, Marine Advisory Program, University of Southern California, Wilmington, California
- 12 Noon Conference Ends

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## WELCOME TO CONFERENCE

by Ron Stone,  
Boating Industry Associations

Good morning, ladies and gentlemen, and welcome to the first National Boating Facilities Conference.

At the outset, let me introduce myself. My name is Ron Stone. I am Director of the Government Relations Department of the Boating Industry Associations. With the American penchant for abbreviations and colloquialisms, many know us as BIA.

For those of you who do not know what BIA is all about, and judging from some letters I have received addressed to me at the Bureau of Indian Affairs, there is not always the sharpest perception of our mission, let me establish our credentials and our interest in cosponsoring this type of conference. BIA is not the last vestiges of the American Indian Nation; Marlon Brando has never asked for our support in upholding tribal fishing rights. The Boating Industry Associations is a national trade association for America's pleasure boating industry. We speak for more than 700 manufacturers nationwide, manufacturers of recreational watercraft, outboard motors and other marine engines, boat trailers, and the full range of marine accessories and services. At BIA headquarters in Chicago it is never enough to have the customer buy a boat and enjoy it as best he can. We are involved in many fields of endeavor to optimize boating enjoyment. One of our principal concerns, which brings us to this conference, is ensuring that there is room to go boating.

The future of boating is bright if you measure it in terms of popular appeal or enthusiasm for the sport. But physical limitations on boating - by that I mean the chronic problems of supply and demand in boating facilities which show up in long lines at boat launching ramps, haphazard parking of cars and trailers, waiting lists every season for space at the local marina or anchorage, overcrowding, no boat zoning restrictions, remoteness of facilities, and conflicts of use - all these combine to take the fun out of boating and drive people away. A large part of boating's appeal is that it is a way of getting away from the pressures of everyday life. The appeal is greatly diminished as long as boatmen have the hassle of finding a place to go boating in peace and comfort.

In this National Boating Facilities Conference, which hopefully will be the first of many, we are looking for answers to how we can break the facilities bottleneck. We, in industry, are very grateful to the Office of Sea Grant/NOAA Marine Advisory Service and the New England and University of Rhode Island Marine Advisory Services for helping to make this conference possible. We are encouraged that Sea Grant has had the foresight, where others associated with government have been dilatory or indifferent, to know that boating is one of America's fastest growing sports, and how much it means to the tourist industry which is one of this country's leading economic pacesetters. We are absolutely delighted with the volume of concrete, constructive data Sea Grant has turned out on the economic and environmental impact of recreational boating facilities.

The fact that you are here today shows that you share our interest and our concern. Together we can accomplish a great deal to help boating.

Believe me, ladies and gentlemen, boating needs help. Contrary to popular misconception, boating is not a rich man's sport whose participants can afford to take care of all their facilities needs. It has broad based appeal among all income levels. The public and private sectors have failed or neglected to keep up with the growing number of boatmen, and that worries us. Unless the situation is reversed in today's waterfront management planning, the future may see boating on the endangered species list for lack of facilities to go boating.

I know I told you that BIA has nothing to do with Indians. But the nature of this conference, trying to throw some light on problems darkening the horizons of recreational boating, reminds me of the story of the tribe that raised enough wampum selling arrowheads to send one of their braves to engineering school. When the brave returned to the reservation with his degree in engineering, one of the first jobs the tribal council commissioned him to do was to wire the outhouse for an electric light bulb so they could see what they were doing. The brave thought this was a little demeaning for a Red Man with his sophisticated level of education, but he did the job of wiring that outhouse, and, do you know, he became known far and wide as the first person to wire a head for a reservation!

We are very optimistic that this National Boating Facilities Conference, the first cooperative venture between the boating industry and Sea Grant, will generate a wealth of information for recreational planners involved with boating.

## WELCOME TO CONFERENCE

by Neil W. Ross,  
Marine Recreation Specialist  
Marine Advisory Service  
University of Rhode Island

During 1976, our Bicentennial year, 50.5 million people spent 5.33 billion dollars while using an estimated 10 million pleasure craft in the U.S. Over six thousand boating facilities, including marinas, boat yards and yacht clubs, serviced the needs of the recreating public. Since World War II, recreational boating has grown rapidly with free market forces controlling the expansion and access to waters.

We have now entered a new age of coastal planning. As more and more people want to use the shoreline for more and more purposes, it is clear that some form of public management is necessary to allocate our finite shores. Recreational boating is but one of the uses which are dependant on access.

This national conference is organized to take a look at the needs of recreational boating and the process of managing our shore areas. How can recreational boating continue to grow, to compete, and to survive in a world of increasing regulations, controls, and restrictions? That question disturbs some boating businessmen who feel that coastal zone management forebodes an end to the free enterprise system. Others, however, see it as a means of protecting boating's share of the shoreline.

At the start of this program, I would like to share several thoughts and concepts on boating facilities and how to plan for them.

1. I think it is helpful to think of boating facilities as funnels whose necks are on the shore. That marina, boat yard, yacht club, or launching ramp, is a funnel through which people and boating products gain access to recreational waters. Often a facility is privately managed but it still is a major public access point to recreational experiences. As the neck of the funnel is allowed to expand more people can share in the benefits of pleasure boating. However, when the neck constricts because of increasing regulations, high land cost, restrictive zoning, or poor management, then the number of people and products going on to the water also constricts. This "facility as a funnel" concept needs to be understood both by the recreator and the coastal planner. Boat manufacturers generally have not awakened to what is happening on the shoreline, nor that their future is now being decided by the coastal planner.
2. Recreational boating needs shoreline for access and thus is a shore dependent use which must be involved in the planning process. I would suggest for a planning policy that shore dependent business, such as marinas, be given preference over non-shore dependent business, such as condominiums.

3. It is helpful to look at marinas and boating facilities for what they really are. They are not hotels filled with overnight visitors. In most instances marinas are parking lots of empty boats and, except for the warmer climates, are in use only during the boating season. In addition, it is important to understand that when the boats are in use they are usually out and away from the marina. These two perspectives seem to be overlooked or not understood by the "environmentalists" and many public health officials. They often feel that where there is a boat in the water at a dock then people must be living aboard pumping bilge water and sewage overboard 24 hours a day for 365 days. I believe that it is as wrong to equate the environmental impact of a marina to that of a motel as it is to deny that boats and marinas have any environmental impact at all.
4. Economic impact studies on recreational boating have found boating is a good business to encourage in coastal communities, and provides stable income while making few demands on the local economy.

Recreational boating is a healthy sport which plays an important role in our society. To many people it is a means to an end, such as sports fishing, racing, cruising, shellfishing, and hunting. For many others just getting away, maintaining the craft, drifting, or just going out for a spin is the recreational experience itself. Boating facilities are the key to the entire recreational boating experience. It is extremely important that we have gathered here to consider what role coastal planning will have in determining the future of recreational boating.



## THE DYNAMIC GROWTH OF RECREATIONAL BOATING

by Jeff Napier, General Counsel  
Boating Industry Associations

On behalf of the Boating Industry Associations and myself, I would also like to extend a cordial welcome to the National Boating Facilities Conference. Like its predecessors, the purpose of this conference is to discuss and see first-hand what the problems and solutions are regarding access to recreational waters... commonly referred to as boating facilities. It is intended to be a clearinghouse of information both through the formal discussions and printed proceedings. It is intended to be a workshop session with plenty of opportunity for questions. It is intended to provide you with plenty of contact with other experts in the recreational business whether private sector businessmen, government recreational specialists or planners and researchers from academia. Welcome to the conference. Don't take notes -- proceedings will be published.

To keynote the conference, I would like to highlight boating's dynamic growth over the years and quantify and qualify what recreational boating is today. It may well be that pleasure boating started before Cleopatra's barge on the Nile. But if so, there were no trade associations or recreational planners to record events. For much of history, recreational boating was done in work boats in their off hours, so to speak. Newport, of course, played an important part in recreational boating over the years and continues its prominent role with the America's Cup races.

Anything remotely approaching the popular concept of boating as we know it today doesn't go back further than this century in terms of identifiable facts. It is statistically noted that there were about 15,000 recreational boats in use in 1904. By 1913 the number had grown to 400,000 and by 1930 to an estimated 1.5 million craft. Most, of course, had wood hulls. But recreational boating was really a child until after World War II. In part, the exposure of so many millions of troops to boating and small boats as part of their military duties in the Navy, Marines or fording rivers accounted for the post-war popularity of boating. In part, the improved technology which had developed during the wartime production efforts of our industry made the product more reliable and cheaper. By 1947 there were an estimated 2.4 million boats in use.

In the space of 5 years this number had doubled to over 5 million recreational boats in use. And in the early 50's two new hull materials came onto the market and started replacing wood: aluminum and fiberglass. These materials offered several advantages: first, easier maintenance; second, cheaper production costs; third, greater design flexibility. The result, further growth. Another million boats were added to the fleet between 1953 and 1956.

In 1956 everyone was astonished to find that boating had grown to a billion dollar a year industry... \$1.25 billion dollars to be exact. One out of every 28 people owned a boat. Over 28 million people went boating that year on a fleet of 5,971,000 boats. Some of you may remember that year. Even Ron Stone was in the industry by then. There wasn't much regulation of pleasure boating then by either the states or the federal government. The Federal Motorboat Act of 1940 was about all... a few simple requirements.

By a decade later, in 1966, there were over 40 million people boating. The fleet had grown to over 8 million vessels. Annual expenditures were \$2.8 billion. You could tell that boating was on the map because the Federal government had

gotten involved through passage of the 1958 Boating Act. It was this legislation that set up the state boat registration system, state marine law enforcement and, in some lucky states, boating facilities development programs were established as an indirect part of government involvement.

Now, a decade later, the last year of complete figures in 1976, finds boating grown to 50.5 million participants, a fleet of 10,105,000 vessels, and annual expenditures of 5.33 billion dollars. 900 people in the Coast Guard devote themselves to boating concerns. Consider this: The value of the recreational boating fleet in this country is greater than the value of the U.S. merchant marine fleet - something like \$17 billion to \$9 billion. Now one out of 20 Americans owns a boat. In the last 20 years exports of recreational boating products have grown from about \$25 million to over \$100 million annually with a favorable balance of trade. Boating is the nation's 7th most popular outdoor recreation -- right behind swimming and fishing -- which are often done from a boat, of course.

Let's look at some of the things boats are used for. In 1976, 35% of boat owners used their boats for just plain cruising; 36% used their boats for fishing; 26% for hunting; 38% for water skiing; and 24% for scuba diving. The figures total more than 100% because of multiple uses.

When you talk about boating you are really talking about many markets. For example, would you believe that those 13 million waters skiers bought 1.5 million water skis in 1966 valued at \$95 million?

Boatmen also bought 285,000 boat trailers in 1976 valued at \$121 million and averaging \$425/unit.

\$230 million was spent on the purchase of 86,000 new sailboats swelling the sailboat fleet to 890,000 boats in use. In total, \$605 million was spent on new and used sailboats, sails, hardware, etc.

-341,001 outboard boats were purchased in 1976.

-11,000 inboard boats were purchased; the fleet is estimated at 900,000 .

-80,000 inboard/outdrive boats were purchased; the fleet is now 450,000 units.

-77,000 canoes were purchased in 1976.

-1,400 houseboats were purchased.

-468,000 outboard motors were purchased, worth \$514, million.

-1.3 million anchors were purchased.

-4.1 million life jackets were purchased.

Boating is big business, as you can see. Several marine industry companies are on the Fortune 500 list although boating in general is characterized by many small companies. There are over 2,000 boat builders alone.

Slightly under 500,000 persons are employed in the marine industry directly and indirectly counting full and part time employment -- close to one-half of one percent of the employment in the country.

I should add that over 300 of our country's colleges and universities offer leisure study programs which often include boating activities. Several thousand people are employed in state, local and federal government agencies regulating or studying boating.

## HOW MUCH DOES A BOAT COST?

In 1976 the average outboard boat cost \$1,050. The average outboard motor cost \$1,100 and averaged 42 horsepower. The average cost of a stern-drive boat was \$7,200 - this covers a wide range of boat types and sizes as you may know. Averages, of course, are a bit misleading - the median figures are lower.

Boating is one of the top ten fastest growing sports in America. This is most impressive when you consider the minimal investment and difficulty in participating in the other growth sports such as swimming, walking, cycling, tennis, etc. You don't have to register your tennis racket as you do a boat. There isn't much problem parking your swimming suit as there is mooring your boat. You don't need to spend as much on these other things as you do to buy and run a boat.

But notwithstanding the expense and difficulty, boating is more affordable to more people than every before. After adjusting for inflation, we find that the price of a 10-horsepower outboard motor has increased 13% in the last 40 years. But the average wage has increased 129% after adjustments for inflation. The price of a 35 horsepower outboard motor actually decreased 18% over 40 years ago. To say it another way, the number of work hours required to afford boating products is much less than it was. That's affordability.

Who sells boating products? Close to 16,000 marine dealers plus sports shops and Sears, Pennys, and Wards.

The average marine dealer in 1976 sold \$425,000 worth of new and used equipment. New equipment sales accounted for 52% of his revenue; used equipment, 21%; and service income, 21%; with miscellaneous accounting for the rest. Of the new equipment sales, new boats accounted for 32%; new motors 22%; new trailers 12%; and various accessory items 28%.

What about marinas and boat yards? At present, there are almost 6,000 marinas and boat yards in the U.S. The average marina gets 32% of its income from repairs and services with fuel and mooring accounting for 29%. Sales of hardware account for 17% and sales of new boats, 8%. The average marina has a total gross sales volume of \$700,000.

Who buys boats and motors? According to industry purchaser profiles for outboard boat purchasers, skilled workers account for 21% of the purchases; clerical workers and salesmen over 20%; managers and proprietors 16%; professional people 16%; semi-skilled workers 11%; farmers and farm laborers 3%; protective and service workers 9%; and factory labor about 2%.

I have traced the growth of boating as a people activity and a significant economic factor in our country. I have not touched upon its future growth and the considerable potential boating has to reduce unemployment, serve as the nucleus for urban redevelopment, as well as providing its own intrinsic values

Boating's future growth faces problems which it never did before.

-Will boating be planned out of the Coastal Zone?

-Will wetland protection stop needed facility development?

-Will the Bureau of Outdoor Recreation ever give boatmen their money's worth?

-What is the appropriate role of government in facility development -- of private investment?

These are the questions the balance of our conference will address. These are important questions when you consider that you are talking about an activity enjoyed by 50 million Americans and the jobs of 350,000 to 500,000 people. These are important questions when you consider the potential spin-off benefits of boating facility development such as the urban renewal you will be seeing on our tour.

I know you will find this conference most stimulating and information-filled. Again, welcome to the conference.

## INTRODUCTORY REMARKS -- "THE FEDERAL VIEW"

by Ron Stone,  
Boating Industry Associations

For many years the Boating Industry Associations in its boating facilities promotion efforts has devoted its best efforts to providing what we call "how to" information.

For how to finance a boating facility, we published a piece called "Boating Facilities for Your Community" with pointers on bond issues, grants-in-aid, legislative appropriations, and so forth.

For how to line up an experienced architect and engineer for designing and building a servicable boating facility, BIA is in its 10th edition of a "Directory of Architects and Engineers."

For how to build a simple launching ramp, dock or pier, we published a basic design booklet called "Launching Ramps and Piers."

For the would-be marina investor who wants to know how to size up the boating market, we have a raft of statistical data on outboard motor sales -- state by state and by leading metropolitan markets -- and also on the number of registered boats in use from state to state broken down by size or class of vessel, inboard vs. outboard, and hull composition.

For boating facilities developers who are troubled by operation and maintenance questions, BIA has technical information on slip sizes, parking space, weather resistant structures, maintenance costs, aesthetics and more.

We even try to tell the boatmen how to locate existing facilities with our regionalized "Sources of Waterways Information."

But I submit something important is missing from our list of "how to's," something that undermines everything we have done to help boating facilities development. We haven't mastered how to convince Federal, State and local governments involved in long-range outdoor recreation sources development or in coastal zone management planning or in wilderness preservation that boating counts in the scheme of things.

What good is participating in the public participation process, all those hearings which the government tells us is our opportunity to speak for boating, if the government won't heed our commentary and written objections, if the agencies in charge keep relegating boating to the back burners of planning and development?

Boating opportunities are being foreclosed left and right. In coastal zone management we fear that conservation policies will prevent the development of any new small craft harbors and marinas. We know that environmental impact studies are playing havoc with dredging and filling and the construction of jetties and breakwaters. Many marine developers have been socked by the one-two punch of inordinate delays with government red tape and inflation.

Many in government seem to think that recreational boating facilities needs can best be taken care of by the private sector. Unfortunately, present government policies often intimidate and inhibit private investment in this field. Government also seems to have a distorted notion of what recreational boatmen's facilities needs are. We need launching ramps and related parking areas for the majority of boatmen who trailer their boats. We need dock space, particularly on waters accessible to the urban areas where the majority of boatmen live. These are the kind of projects where government can help without cost to the general taxpayer.

The boating public could pay its own way if Federal and state taxes paid on fuel used in motorboats were spent on motorboating facilities instead of on highways, tennis courts, swimming pools, bicycle paths, and other projects of no benefit to the people paying the freight.

This morning we will hear from a battery of Federal agency officials who in one way or another are involved with implementation of laws and key policy decisions affecting recreational boating as part of nationwide outdoor recreation resources development. Their remarks should give us a unique Federal overview on where boating stands in the scheme of things. Hopefully, our speakers can tell us what we in boating have to do to break the facilities bottleneck.

THE FEDERAL VIEW: OFFICE OF COASTAL ZONE MANAGEMENT

by Dallas Miner, Public Participation Coordinator  
Office of Coastal Zone Management

The topic assigned for this presentation: "Who Controls the Shore, Controls Boating" is posed as a declarative statement, which, I trust, the conference planners intend for me to amplify.

At the heart of this issue and indeed much of the thrust of this gathering is the obvious need for expanded and improved facilities for the recreational and commercial boater. I am confident that you will hear repeatedly throughout this event statistics, data, facts, and figures all pointing to the growing disparity between demand for services and facilities and the supply of these necessary amenities available to the boating public. Importantly, all of us here will want to know what's being done to alleviate these increasing pressures.

To begin, however, I'd like to pose part of this topic as a question: "Who does control the shore?"

Figures tell us that the vast majority of the U.S. shorelines is held in private ownership and that the amount in public ownership and available for public recreational use is something less than 5 percent. This is a very important fact to bear in mind as we proceed through this and many other presentations which we will hear.

Obviously, ownership figures are but part of the answer to this question, because control takes many forms and we're all aware that government, at all levels, is becoming increasingly involved in decisions which influence our shoreline resources. Local governments through zoning and other exercises of the police power have a very strong impact on the manner in which shoreline resources are put to use. State governments deal with broad issues such as environmental protection, economic development, provision of public services, and so forth.

And, of course, the Federal government is involved through a wide variety of agencies and programs. So, "control" of the shore comes in many forms and quite often there is confusion over which brand of control will be preemptory.

The Coastal Zone Management Act of 1972 was, in great part, stimulated by this very fact: That control of the shore was looming as a great confrontation between a wide variety of legitimate interests in a finite and, in fact, very limited resource.

We, in coastal management, see this as a principle part of the program's mission: To provide a comprehensive framework within which conflicts over use can be resolved in a systematic and balanced manner. This is no easy task, as I'm sure all of you can appreciate. We now are coming to the end of the first phase of the program, the planning phase, in which the coastal states are being given financial and technical support to develop coastal resource management plans. It has been and will continue to be an effort requiring great energy and ingenuity. The experiences gained to date have taught us a great deal about the difficulties in intergovernmental relations and in finding an acceptable balance between public and private interests.

I harken back to the fact that over 90 percent of the shore is in private ownership: Those who have it generally want it for themselves and expect the government to protect their rights of use; those who don't have it want to share it and expect the government to pry open the opportunities.

This has been one of the most intense issues facing CZM programs in virtually every state. How do you meet the general public's increasing demands for access to the shore and plan for the services needed to facilitate recreation while at the same time reorganize private property rights, and the desire of local governments to govern their own future?

Believe me, there is no simple answer to the question: "Who controls the shore?" The issue is wrapped up in some very broad and far-reaching change that is occurring in the way in which we view the relationship between private rights and public interest. The traditional view of land as a commodity is being challenged by the concept of land as a resource. This is especially true in the coastal zone where the commodity value and the public resource values are both so high. In many aspects, the narrow coastal strip is a proving ground for this change. All the forces are present: industry, housing, agriculture, transportation, energy, recreation, fish, wildlife, endangered habitat, local/state/Federal governments and people, more than half of the total population, with each interest seeking to claim some element of control over the shore. I doubt that there's any general agreement over who has the upper-hand and certainly less agreement over who should. If you ask an industry representative, the answer will surely be that the government controls too much; an environmentalist will tell you the exact opposite; a property owner will seek to protect vested rights; a person at the beach will protect this piece by putting a blanket on it; and, a recreational boater tied up at a traffic jam at a launch will know that, if nothing else, he or she doesn't.

There is no definite answer to the question, other than a lot of people and a lot of interests control the shore. The broader more serious question is how do we resolve the conflicts.

As I mentioned, the Coastal Zone Management Program is a step in that direction and I would like now to describe the program with as much specificity as possible to your interest in boating facilities.

#### Coastal Zone Management: The Process

The CZM program is basically a partnership process involving all levels of government and the private sector.

Federal role. The Office of Coastal Zone Management issues grants to 30 eligible states and four U.S. territories. Participation by the states is voluntary with no Federal sanctions if a state chooses not to be involved. Cost-sharing grants are issued for program planning and, ultimately for implementation of approved programs.

State role. The states, in cooperation with local governments, are lead elements in developing and subsequently implementing coastal resource management programs. There are currently (November, 1977) three states which are receiving Federal grants



for program implementation: Washington, Oregon and California. Within a few months those states are expected to be joined by Wisconsin, Michigan, Rhode Island, Maine, North Carolina, Massachusetts and the Virgin Islands, as approved CZM programs.

#### Important Program Elements for Recreational Boaters

-The boating industry should work with each state program to identify policies, goals, and objectives which reflect boating needs. This is a critical point for marine recreation. It is vital to work with your state CZM staff to identify needs and articulate policies required to support enhancement of recreational opportunities. Several states recognize the need for increased public access; economic importance of recreation; and the need for expanded recreational facilities, and articulate these needs in the CZM program statement of major objectives.

-A next step is to develop data necessary to create the management tools required to fulfill the policies, goals, and objectives. A number of states have sponsored data gathering and assessment studies focusing on marine recreation needs: Wisconsin, Maryland, Florida, and Rhode Island -- in conjunction with the outstanding work done by Sea Grant and the University of Rhode Island -- are a few that come to mind. This research will help create a foundation for action in the implementation phase of the CZM process.

-An important element which follows is the articulation of water-dependent priority uses to which coastal resources will be allocated. This is a very difficult and always a controversial part of program development. If a good job has been done in the establishment of priorities, goals, and objectives, the alignment of priority uses should be fairly systematic.

-Closely allied to priority uses is the designation of Areas of Particular Concern, within which special management consideration will be given. A number of states have used this opportunity to pinpoint coastal areas which will receive particular attention for recreational use, including boating facilities. Examples are Michigan, Ohio, Florida, Virgin Islands, Illinois and, to a degree, California. What this does is identify areas which are suitable for recreational facility development and then flags this as top priority. So, for example, if the state is choosing to use development permits as a management tool, those permits sought which are recreational development oriented would receive top priority.

-Finally, the Federal Consistency and other intergovernmental coordinative mechanisms can be brought to bear in providing improved recreational facilities. What this does, simply, is provide a mechanism to coordinate governmental activity in a way that is responsive to the desires of the states in coastal resource management. This is a tool which holds a great deal of promise and one which will be implemented in direct proportion to the level of commitment made by the state to make its CZM program work.

That, basically, is how the process works and where the opportunities for meeting boating facilities needs can be found. It is important to mention, that with one limited exception, the coastal management program is not a facility construction program. There is very little brick and mortar work that will be funded through CZM. It is a planning and management process that can help facilitate expansion of boating facilities, but not one that can generally provide the most needed dollars to get the job done. The greatest benefit may be to the private sector in helping to smooth the way for construction of new or expanded facilities. This can be accomplished through coordination of permit requirements and by identifying recreational facility development as a priority use of appropriate coastal sites.

Suffice it to say that the CZM process can be of substantial benefit in providing boating facilities through the planning and management elements, particularly where careful groundwork has been laid in the program document.

There are some other elements of the program which can be tapped to provide assistance of interest to the recreational boater.

Beach access: Authorization to acquire access to publicly-owned recreational areas. This could include improved access to public areas which include boat ramps.

Fisheries assistance: Although not directly tied to boating facilities, could provide benefit to the sport and commercial fishing industries. OCZM has just announced a \$200,000 grant to the State of North Carolina to improve its overall fisheries management work. Additional proposals are being considered in the Great Lakes relative to the tremendous boom in salmon fishing and also in Maine for expanded fisheries management.

Marine Sanctuaries: President Carter in his environmental message called for an expansion of the Marine Sanctuaries Program. The National Oceanic and Atmospheric Administration is currently responsible for this program and is preparing to accept nominations for new areas. This effort could be particularly important in identifying and managing areas of unique value for marine recreation.

Coastal Energy Impact Program: The CEIP does offer some opportunity for physical construction of recreational boating facilities. The CEIP is designed to provide financial assistance primarily to local governments which will experience growth related to OCS and other energy developments. One form of assistance is called environmental/recreational grants. The intent is to provide direct financial assistance to offset losses to valuable environmental or recreational resources caused by energy development. This may likely involve the construction of new recreational boating facilities when existing dock space is taken over by vessels engaged in energy-related activities. Early indicators are that ports will be a focal point of assistance and, in fact, the CEIP staff is currently reviewing applications which could lead toward replacement of preempted recreational boating facilities.

These, then, are the types of opportunities that are potentially available through the CZM program to help you meet the needs for improved and expanded boating facilities. I use the word potential because few of these benefits are given. They must be worked for not only by those of us in government, but by you, as citizens, and private sector representatives. It is vitally important to you that you work closely with your state CZM program and with our office to insure that your needs are adequately considered. I call upon the words of Mr. George Rounds of the National Association of Engine and Boat Manufacturers when he said, "Above all, we have urged members of the industry to become activists in the coastal zone management scene and thus to work constructively for a balanced use of America's water resource. Some have accepted the challenge. Others will. Others must, if recreation is to have a place alongside conservation, preservation, and economic utilization of our finite coastal resources." That charge to the industry could not be more clearly stated. I can only echo this advice and encourage all of you to step forward and work with us in upgrading the level of response to the pressing needs of the recreational boater.

## THE FEDERAL VIEW: U.S. ARMY CORPS OF ENGINEERS

by Brigadier General Drake Wilson

I've been asked to discuss the Federal viewpoint and, more specifically, facility development versus wetland preservation. I've decided to expand on that somewhat, hopefully to give you a more complete and balanced picture.

The Corps has a number of responsibilities, but those of greatest interest to you, I would expect, are our construction of facilities such as lakes and small boat harbors, and our regulatory authorities which restrict your ability to build.

Let me talk first of lakes. We go about building lakes, 426 of them to date, through an elaborate procedure...

None of the projects we build are generated by us. All are started by the local people who need and want them. The genesis of a typical project -- it could be a lake, a small boat harbor, a major commercial harbor, an inland waterway, a navigation lock, a flood control channel, or a recreational beach restoration -- occurs over a series of steps. The length of time for each step varies but a total of over fourteen years is typical for a large project.

First, the local people must communicate their need to their Congressman, because the Corps cannot act without a specific directive from the Congress. We can help local groups articulate their needs; we can help Congressmen draft needed resolutions or legislation; but that is all we can do until Congress--by resolution or legislation--directs us to study the problem. Our feasibility study which follows includes the development of engineering solutions, the evaluation of their economic feasibility, and the assessment of their impact on the environment. Essentially, we determine whether there is a problem or need, whether there is a solution, whether the payoffs justify the investment, and whether the impacts on the environment are acceptable. We report these findings to the Congress with our recommendations. If the findings are positive and we recommend Federal action, the Congress will usually authorize construction of the project. Authorized projects are eligible for funding. The next step (once funds are provided) involves the design of the project by the Corps and the preparation of contract plans and specifications. Construction is actually accomplished by private contractors who bid competitively for the contract. We manage the construction to assure compliance with plans and specifications and inspect the completed work. We pay the contractor as he progresses and make final payment when we accept the completed project. As I said, it is an elaborate procedure; it is also deliberate. It is designed to assure maximum protection of the overall public interest.

### LAKES

The Corps is proud of the lakes it creates and administers. Since 1944, we have impounded a water acreage roughly equal to that of Lake Ontario... and, in the process, created a recreational bonanza on and around all that water that drew nearly 400 million Americans last year. Water offers the boater one form of recreation, the fisherman another, and the swimmer yet another. Add in picnicking, camping, waterskiing, and just plain loafing on the bank, and we begin to see how valuable -- and how versatile -- our water resources really are. Corps-run lakes obviously serve a myriad of public needs. We think they serve them well. And through the advice and counsel of groups such as yours, we in the Corps continually strive to upgrade the standards of such service. One example

is in spacing out recreation access areas -- such as marinas -- to minimize the concentrations of boats along the waterways. They should ideally be located in embayments or side channels so as to limit interference with main navigation channels; yet be accessible to small boaters.

The Corps of Engineers has developed and maintained the largest water resource program in the Nation... and it has been inevitable that people have turned to the Corps, increasingly, as a recreation supplier. And they don't have to turn far. More than two-thirds of the Corps of Engineer lakes are located within fifty miles of large metropolitan areas.

The magnetism of these large, placid bodies of water is evident. Usage has trebled since 1960, primarily during the summer boating and swimming months. However, winter, snow and ice do not by any means "close" these Corps recreation areas. Ice fishing, snowmobiling, hiking, and hunting are increasing in popularity... and continue to draw people into these areas long after the "summer people" have left. In other words, the lakes and adjoining recreation areas are a year-round attraction, requiring year-round administration.

As for the future, the Corps of Engineers recognizes its responsibility to maintain and improve both the quality of its lakes and their continued accessibility to users of all forms of water recreation.

The Corps intends to be acclaimed for its environmental initiative, not blamed for its environmental indifference.

The lakes program is something we take seriously... and take pride in. I can assure you that we will continue to give it high priority, and that boating needs will continue to figure prominently in this planning.

#### LAKESHORE MANAGEMENT

By definition, every body of water has a shore and Corps involvement doesn't end at the high-water line. Some of our recent efforts to improve lakeshore management and assure public access have simultaneously generated praise and criticism. Most of the criticism has come, understandably, from adjacent land-owners and permit holders who have made sizeable investments in their recreational facilities and have enjoyed their use for many years. These are people whose lifestyle is directly affected. While they are relatively few in number, it is our policy, and sincere intent, to honor any past commitments we have made to them and to protect their investments as best we can. This policy is commensurate with our responsibility to protect and manage the public's resources. Public access to Corps-administered lakes is required by the Flood Control Act of 1944. Additionally, the National Environmental Policy Act charges all Federal resource managers to take active measures for the protection and management of the resources in their charge. The Corps began to realize in the early 1970's that its past policy of allowing exclusive private use of Federal land was too permissive and was jeopardizing its ability to fulfill the requirements of these laws. Many homeowners in subdivisions adjacent to these lakes mow grass, clear brush, and perform other landscape alterations all the way to the water's edge. While the Corps has issued about 16,000 permits for such activities, many other people have proceeded without permits. Such activities carry a falsely implied message to the lake-using public that reads "Private Property, Keep Out."

About 20,000 permits have been issued by the Corps for "private recreational facilities," such as boat docks and boat houses. At some lakes, the density of these structures per mile of shoreline is overwhelming. In most cases, these permits have been issued to owners of adjacent private property, and access to the facilities is allowed across the government land separating their property from the shoreline. The geographic relationship between these adjacent lots and the permitted docks also implies the message "Lake user: Keep out."

Here are some guidelines about our policies involving boat owners. It is the policy of the Corps of Engineers to manage and protect the shorelines of all lakes under its jurisdiction, to properly establish and maintain acceptable fish and wildlife habitat and ensure the aesthetic quality and natural environmental conditions. Paramount also is the promotion of safe and healthful use of these shorelines for recreational purposes by all of the American people. Ready access to and exit from these shorelines by the general public shall be provided.

For projects where Corps real estate is limited to easement title only, management action will be appropriate to assure the safety of the public who use lake waters. It is the objective of the Corps to control private exclusive use of public property to the degree necessary to gain maximum benefits to the general public. Such action will consider all forms of benefits: Recreation aesthetics and fish and wildlife. Private exclusive use will not be permitted on new lakes or on lakes where no private facilities or uses currently exist. Such uses will be permitted only to honor any past commitments which have been made.

Boat owners are encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands or trailer their boats to public launching ramps which are provided by the Corps at no charge.

When private floating boat moorage facilities are desired, community mooring facilities will be encouraged in an effort to reduce the proliferation of individual facilities. It is the Corps' policy to issue only one permit for a community boat mooring facility with one person designated as the permittee and responsible for all moorage spaces of the facility. If, for extenuating circumstances, this approach is not feasible, the District Engineer is authorized to grant individual permits for individual moorage sections of the community moorage facility. The latter method is strongly discouraged, however.

Lakes are relatively problem-free... once the recreation pool is established, and the shoreside access areas built. Not so, necessarily, with our rivers and canals.

#### INLAND WATERWAYS

America's inland waterways provide both commercial benefits and superb recreation opportunities. The two pursuits, unfortunately, do not always peacefully coexist.

These usage disputes generally can be grouped in three categories:

1. Conflicts between recreational boats and commercial navigation.

2. Inadequate knowledge of boating courtesy and water safety.
3. Location, type and magnitude of recreation development.

When you consider that it was not until 1962 that the Congress extended the Corps' general authority for recreation development, operation and maintenance to non-reservoir water resource developments, you can readily understand that there were bound to be recreational problems that needed to be immediately addressed under the expanded authority.

Conflicts between recreational boating and commercial traffic are increasing rapidly. A lot is being done to solve this problem. We try to locate recreation access areas at reasonable distances apart to spread out the boats along the waterway and position these areas to concentrate appropriate uses in areas most suitable for specific activity and least conflicting with other uses. For example, side channels, oxbows and side open water areas with minimum conflict with navigation hazards are generally sought by water skiers. Sun bathers prefer quiet areas to anchor their boats. Swimmers must be located away from boat traffic.

Recreational development, too, must be planned for the specific purpose to be served. The past tendency to standardize development in all areas does not provide for the wide range of desires of the public. For example, the historic concept of providing limited facilities such as "public access" by building a road, parking area and boat launching ramp will often create more problems than it solves. Where such a development serves a metropolitan area and recreation needs are for day use only, the access area concept usually works well. However, in more remote locations, in addition to boating facilities, users generally desire camping space and may rapidly overload an area unless tightly controlled.

The Corps' aim is not to encourage standardized developments but rather to plan for the apparent recreation use expected and the resource base to be used. Each location requires a specific design. The Corps must keep one eye on future commercial navigation requirements, and the other on satisfying that recreation demand which can be safely accommodated on the inland waterways. And all the while this delicate balancing act is underway, there are the paramount environmental considerations. Advance planning -- in full cooperation with future users like yourselves -- is and will continue to be the Corps byword.

Every Army Engineer Division organization includes an Environmental Planning Branch in the Planning Division to plan for preservation and enhancement of environmental values. The Corps employs well over 100 landscape architects in Civil Works and Military Construction and engages more as consultants. The Corps also employs scores of biologists, ecologists, foresters, and other specialists in environment. Insuring an environment for recreation was once a minor assignment for the Corps of Engineers -- today it is one of our largest programs.

And our involvement is not limited, by any means, to fresh water.

### SMALL BOAT HARBORS

The Corps has planned for and constructed more than 250 small boat harbors and harbors of refuge, along our three coasts and in the Great Lakes area. Upon completion, these harbors are turned over to the localities for operation... with Corps' expertise and equipment available for channel maintenance, dredging and advice and assistance on shoreline erosion methods.

When we talk small boat harbors, we are talking about Corps' response to requests from coastal municipalities. We don't build harbors for yacht clubs. The Corps will fund and build entrance channels and protective jetties, while the local government provides money for interior channels and boat slips. There is normally a 50 percent cost-sharing ratio. When the job is completed, the Coast Guard has responsibility for navigation aids.

Here again, there are conflicts with wetlands preservation. When you dredge out a channel... where do you put the dredged material? We are working on some innovative answers to this problem.

Water recreation... like everything else... has its attendant paperwork. Of particular interest to you is the permit program.

### CORPS PERMIT PROGRAM

And the Corps permit program is an equally vital, but perhaps more confusing, aspect of our relationship. Essentially, permits are required prior to the placing of any fill or the erection of any structure on or adjacent to the Nation's waterways or wetlands. Historically, the permit program traces its lineage from Section 10 of the 1899 Rivers and Harbors Act. This was concerned primarily with permanent or semi-permanent structures. In 1972, under Section 404 of the Federal Water Pollution Control Act, the Corps was also charged with controlling fill-in of waterways and wetlands. The National Environmental Policy Act also comes into play, requiring an environmental impact statement prior to permit decisions. A necessary watchdog.

Most permit applications are decided upon at the lowest administrative level in the Corps -- the District Engineer. This is only logical. He is on the scene and has his hand on the local pulse. The District Engineer also has enforcement authority -- in conjunction with the local U.S. Attorney. And there are definite teeth in the laws available. The Corps can ensure that our waterways are kept in as natural a state as possible... and still be available for recreation enjoyment. We in the Corps are working hard to reduce the time required to process permits for justifiable projects. Currently, an application will take four months for final action. Our annual permit workload is running about 20,000. Remember that the Corps will issue a permit only when the proposed action is in the overall public interest. This is important. Environmental considerations frequently take precedence over commercial interests. Even our friendly adversaries -- the environmentalists -- stand behind the Corps when it comes to the permit program.

The Federal Government will no longer subsidize the destruction of our wetlands. The President has issued an executive order directing all Federal agencies to refrain from giving financial support to the proposed developments in wetlands unless the agency determines that no practicable alternative site exists.

A forthcoming amendment to the Water Pollution Control Act will include proposals to improve wetlands protection and authority for the individual states to assume more responsibility for carrying out the program. Present program requirements allow general permits for normal farming, forestry management, and certain dredging operations necessary to navigation. These provisions will continue to enjoy Federal support.

The President has also proposed to protect and enhance waterfowl population, with a budget increase over the next five years of \$50 million to purchase and maintain wetlands. He has urged Congress to increase the money committed to migratory bird conservation and to raise the price of the "Duck Stamp." These added revenues will be dedicated to waterfowl habitat acquisition.

Permits can still be issued for water-dependent facilities for which no feasible alternative exists. Often marinas fit this description.

- END -



## THE FEDERAL VIEW: OFFICE OF SEA GRANT

by Robert Shephard, Director  
National Marine Advisory Service, NOAA

I've been given the opportunity this morning to speak about a topic that is very important to me -- that is Sea Grant's role in addressing the problems associated with the recreational use of the nation's coastal and Great Lakes resources. Although we are here to discuss a particular form of recreation, namely boating, I think it's important to understand that Sea Grant is also involved in working toward solutions to a variety of marine recreation problems. As we are all aware, however, recreational boating is one of the most significant forms of recreation, in terms of the number of people and dollars involved, that occurs in our nation's coastal areas.

Although there may be a shortage of boating facilities, I am sure we can all agree there is no shortage of boating related problems. The growth in recreational boating, in all its forms from power cruising and sailing to fishing from a row-boat, has been tremendous. As people have turned to our nation's water resources for the experience and enjoyment which comes from recreational boating, however, both public and private officials have been challenged with the difficult task of balancing growing demand with limited and valuable resources. It would be presumptuous of me to attempt to discuss the wide range of issues and problems involved. I think we all recognize that whatever the particular problem, whether it's increasing the supply of boating facilities along an entire coastline or improving the quality and efficiency of a single marina, will require the cooperation and involvement of both public and private interests.

### What is Sea Grant?

- Legislated in 1966 by an Act of Congress
- Sea Grant is now a part of the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce

### Its sister agencies are:

Office of Coastal Zone Management  
National Marine Fisheries Service  
National Ocean Survey  
National Weather Service  
Environmental Data Service  
National Environmental Satellite Service  
Environmental Research Laboratories

- Unlike the other NOAA agencies, Sea Grant and Coastal Zone Management are both granting agencies with missions assigned through specific legislation
- As stated in the Sea Grant Act, Sea Grant is responsible for:
  - \*Initiating and supporting programs at Sea Grant colleges and other suitable institutes, laboratories, and public or private agencies for the education of participants in the various fields relating to the development of marine resources;

\*initiating and supporting necessary research programs in the various fields relating to the development of marine resources with preference given to research aimed at practices, techniques and design of equipment applicable to the development of marine resources;

\*encouraging and developing programs consisting of instruction, practical demonstrations, publications and otherwise by Sea Grant colleges and other suitable institutes, laboratories and public or private agencies through marine advisory programs with the object of imparting useful information to persons currently employed or interested in the various fields related to the development of marine resources, the scientific community and the general public.

#### SPECIAL CHARACTERISTICS OF SEA GRANT

- Involves not only Federal dollars but also dollars from state, university and private sources
- Designed for the identification and practical solution of local, state and regional problems
- \*The particular problems Sea Grant deals with are not dictated by the Federal government;
- \*in many Sea Grant programs recreation and specifically recreational boating have been identified as important program areas.

The type of research and advisory service activities that have been done include:

- Studies to identify the problems confronting marine industries
- Designing and helping to install floating tire breakwaters as a low cost means of protecting marinas
- Helping to improve marina operators accounting and business management practices
- Providing local and state agencies with information about boating demand and characteristics that can be used in facility planning and development

Where do we go from here?

- Encourage Sea Grant Programs to recognize the importance of recreation and recreational boating
- Stratton Commission -- Recreation #2 priority
- Support continued and expanded efforts toward solving recreational boating problems
- Work with other Federal agencies to address boating problems

I, personally, can make the commitment that I will do whatever I can to encourage Sea Grant's involvement and contribution in the area of marine recreation.

The recreational boater has not been ignored.

- Information and training on boat maintenance and operation
- Encourage and aid in boating safety education
- Inform boaters about the availability and use of programs conducted by other state and Federal Agencies such as the National Weather Service marine weather broadcasts and the conversion to Loran C by the U.S. Coast Guard

I could go on but I think it is evident that Sea Grant has been involved in a variety of ways in improving the quality and enjoyment of recreational boating and in helping to solve the problems confronting public and private agencies involved in planning and developing boating facilities.

## THE FEDERAL VIEW: BUREAU OF OUTDOOR RECREATION

by Cicly Kuhn, Outdoor Recreation Planner  
Northeast Regional Office, Bureau of Outdoor Recreation

BOR is a Department of the Interior agency which is closely related to the National Park Service and the Fish and Wildlife Service. The Bureau does recreation resource planning, environmental review and gives technical assistance to park and recreation agencies.

As far as you're concerned, the most important thing about the Bureau is that it is the administering agency of a major park and recreation grant-in-aid program of 50% matching grants to states and local governments for land acquisition and the development of outdoor recreation facilities.

### Land & Water Conservation Fund Act of 1964: Amendments

The Land and Water Conservation Fund Act of 1964 was amended a year ago. The amendments authorized a higher level for the fund, which will triple by 1980 from its present level of \$300 million to \$900 million.

The amendments also contained a mandate for an urban recreation study. According to this mandate, what Congress wants from the Department of the Interior is "a comprehensive review and report on the needs, problems and opportunities associated with urban recreation in highly populated areas, including the resources potentially available for meeting such needs."

### Urban Study: Purposes, Characteristics

There are two moving forces behind the mandate for this urban recreation study. First, Congress wants ideas on how to handle an increasing number of urban national park proposals that are brought before it each year. Often these proposals for national parks are really moves to protect a natural resource. Congress wants to know what other ways the Federal government can respond to these proposals for resource protection, short of buying the resource and managing it like a national park. The portion of the urban study which attempts to answer this question, we've labeled the Open Space part of the study.

The second force behind the study is a growing realization in Congress that urban residents are underserved recreationally. Congress is, therefore, also looking to the urban study for ideas on how to "ameliorate recreational deficiency, and enhance recreational opportunity for urban populations." This second aspect of the urban study we've called the Delivery System side of the study.

The urban study is nationwide: Several metropolitan areas across the country were studied. The study is also broad in scope. Congress wants a study that has "detail sufficient to distill a policy and program agenda for the future."

The study presents all feasible alternatives. It does not select from these alternatives. While the study focuses on the Federal role in urban recreation -- what it is and what it should be -- the study explores possibilities for expanding the role of state and local governments in recreation as well as that of the private sector, for-profit and non-profit. To do the study, Congress picked an administering agency to work with a resource managing agency. BOR was given

the job of coordinating the two aspects of the study. The National Park Service was asked to evaluate land and water resources, both to determine their significance as natural resources and to determine what kinds of resources can best meet urban recreation needs.

#### Current Status

Our field reports are being printed now, along with an Executive Summary, which is the national report written by our Washington office.

The reports will be sent to Congress on January 1, and at that point, final reports will be available for anyone who wants copies.

#### Significance: Overall

What is the significance of the urban study? It represents the realization that the Federal government must become more responsive to the recreation needs of urban residents. Notice I said "the Federal government" and not just the Department of the Interior. The study teams examined all major Federal assistance programs -- those of the Department of Labor, the Department of Housing and Urban Development, HEW, and so on -- to determine what the recreation impact of these programs is now and what it could be if these programs were redirected.

#### Significance: Boating

Does the urban study mean a greater Land and Water Conservation Fund commitment to boating facilities in urban areas? After January, when Congress has had a chance to look at the studies, we'll be able to give you an answer. In any case, the acceptance and success of the study will have a lot to do with the kind of support the study receives from groups like yours.

#### Urban Waterfronts

The acceptance of the urban study is likely to advance boating because most of our field reports identified urban waterfronts as being both significant natural resources and resources that have great potential for meeting the recreational needs of urban residents. Not many resources satisfied both purposes of our study as waterfronts did. Over half of our field studies contain major proposals for the redevelopment of urban waterfronts for recreation.

#### Illustrations: Boston, Philadelphia, New York SCSA Studies

I'd like now to use the three northeastern field reports to illustrate how the reports dealt with urban waterfronts and, incidentally, to show that we do consider the development of boating facilities to be an integral part of, and reason for, waterfront redevelopment.

The Boston study team identified the waterfront from the town of Revere to the town of Hull as a prime recreational resource. As the report says, "the site is most suited to water-oriented activities, both of an active and passive nature. The Boston area residents have a great need for swimming, fishing and boat launching sites."

The Boston team suggested several institutional frameworks for carrying out a waterfront redevelopment program. One of these was a partnership of state and local governments in reshaping use of the coastline. This diagram shows what responsibilities all levels of government and the private sector would take on in order to make this state/local partnership effective. Common to all the institutional frameworks suggested is a major role for the state offices of Coastal Zone Management, for the Corps of Engineers and for the Department of the Interior. Some specific actions that the Boston team suggested for the Federal government are:

- putting more money and manpower into coastal zone planning and coordination;
- offering low interest, long term loans for immediate shoreline acquisition and development;
- providing higher federal matches for coastline related funding programs which either will significantly increase recreation opportunities, or will stimulate private investments in recreational development.

The Boston study team also identified some of the region's river systems as major recreational resources -- the Charles River, the North and South Rivers, and the Sudbury and the Assabet.

The Philadelphia study team identified the confluence of the Schuylkill and Delaware as the center of an extensive waterfront area with high recreational potential. The study describes the pattern of shore ownership, how this is changing, and how these changes, combined with positive governmental and private action, can develop the recreation potential of this waterfront.

For those of you familiar with the Delaware, sites identified as suitable for marine development are Lester, Essington, Mud and Hog Islands, and all waterfront industrial sites as these become vacant.

Again, as in the Boston study, there is a major role defined for the Corps and for the state CZM offices. The Philadelphia team also evaluated the potential for the Delaware from Easton to Levittown, an area including 60 miles of river, 2 canal systems and the entire Trenton waterfront. Places identified as suitable for the development of boating facilities are Van Sciver Lake, Manor Lake, the Pennsylvania Canal, Duck Island and Crosswicks Creek and, of course, the Trenton waterfront.

The New York study team identified the Lower Hudson as a boundless recreational resource at the heart of the metropolitan region. The resource area was defined as the waterfront from the George Washington Bridge south to Battery Park on the Manhattan side and down to Bayonne on the New Jersey side.

The opportunity here is to convert a decaying, industrial waterfront to a regional center for recreation, including boating.

I'll quote from the Park Service's evaluation of the Lower Hudson waterfront.

"The vacant waterfront areas could be redeveloped, with the assistance of industry and private commerce to form one of the major recreational amenities of the greater New York City area. The larger vacant land areas, such as the one near Liberty Park in Jersey City, could form the activity nodes of a linear park and open space system that would span the entire length of the Lower Hudson waterfront... This park system would support day use opportunities to meet the need of existing and proposed residential areas and also regional recreation needs. Small marina operations could easily be provided that would support additional boater access so greatly needed throughout the region."

I should point out that the Park Service team emphasized the need for immediate action -- planning and funding -- to take advantage of this once-in-a-lifetime opportunity. Sites identified as suitable for the development of boating access are the Lincoln Square Redevelopment Project, Hoboken and Jersey City, Weehauken and the lower Manhattan waterfront. Institutional frameworks suggested by the Park Service for waterfront redevelopment include:

- a special bi-state commission (the lower Hudson Redevelopment Commission) to oversee waterfront revival;
- expanding the mandate of the New York Port Authority to include multi-use development of the Port area;
- a partnership between the city of New York and the State of New Jersey

Alternatives which assumed Federal leadership of waterfront redevelopment were also presented in the New York report. Federal agencies such as NOAA, HUD and the Department of the Interior were considered as possible coordinators of urban waterfront redevelopment.

#### Urban Rivers Alternative

One specific Federal program suggested in all three northeastern studies is an Urban Rivers program, similar to the Wild and Scenic Rivers program now administered by the Department of the Interior. Under such a program segments of river systems passing through populated areas would be examined to determine their recreational potential. Federal funding would be available for resource evaluation, management planning of the river segment once designated, and for limited federal acquisition of critical waterfront property.

#### Other Studies

As I pointed out earlier, about half of the studies we did had major waterfront redevelopment proposals. Here's one more slide of the Cleveland study team's proposal for development of the Erie-Cuyahoga waterfront.

Of all the studies, the Seattle study was the most insistent about demand for and shortage of boating facilities. Again, for those of you familiar with the Seattle area, the study team identified boat access sites at Yarrow Point, Sand Point, McNeil Island and the Hood Canal.

#### Summary

In summary, the urban study signals change and more attention to urban recreation needs. Because the study means change, it needs support from groups like yours. When the study is released in January, I hope it will receive your support.

## OTHER VIEWS: BOATING AND ITS FACILITIES -- USE PATTERNS AND CONFLICTS

by Dr. Niels Rorholm,  
University of Rhode Island

Let me first acknowledge that it is possible to discern certain patterns of boat use. For example, from Maine to the part of New Jersey bordering on Raritan Bay, there is a fairly common mixture of uses with from 40 to 50 percent of man days spent fishing; 30 to 40 percent for day trips or cruising; and the rest water skiing, racing, or diving. This same pattern would appear to hold also in Chesapeake Bay, but in between there is an area where ocean use of boats is almost entirely dominated by recreational fishing.

The mixed uses appear again in parts of the Carolina Sounds, in places in Florida and California, and not really solidly again until Puget Sound.

There will be probably at least 50% of you who will disagree with the generalization -- and with good reason. For whereas natural features have a lot to do with the kind of boats and boat use you find in a given area, there are, superimposed on the general pattern, pockets of different uses caused by particular circumstances, for example, sailboat racing and water skiing in the shallow New Jersey bays.

To find some reasons for the patterns I have tried, somewhat informally, to relate boating density to measures of per capita income, population density and degree of industrialization. While, on a priori basis, one can state that both people and income are necessary for boating to develop, graphic correlation of the three variables on boating density in 104 East Coast counties did not indicate strong relationships among these variables on the county level.\*Per capita income produced a recognizable positive relationship with boating density, but not strongly so. Population density was inconclusive, and the percentage of total workers employed in manufacturing produced a suggestion of a negative relationship with boating density. Thus, it must be concluded that available government data do not provide an adequate base upon which to predict where recreational boating will be more or less intensively engaged in. Or, to put it into a planning framework, statistical examination of census and other data provide a very poor basis for predicting where boating has development potential. A much more detailed knowledge of local conditions is necessary and even with that, the entrepreneur undertaking the initial development in a new area would be risking considerable capital on the accuracy of his forecast with respect to future highway construction, dredging and other communication services.

The reasons for the lack of demonstrable relationships on the East Coast appear to be: a) Many boat owners in the area stretching from New York to Virginia-North Carolina appear willing to travel well over 100 miles each way to get to their boats on a weekend if the boat can thus be kept in what is considered a desirable boating area. For example, most of the boats kept in berths or at moorings along the upper east shore of Chesapeake Bay appear to belong to individuals living around Philadelphia. Oriental, North Carolina, on the Neuse River, provides another example of recreational boating development based upon desirable surroundings but with the majority of clientele living well removed from the area. b) Boating intensity develops through the interaction of numerous natural and human factors. Foremost among these are: Safe harbors or adequate launching sites; wind-wave-current conditions that are favorable to the purpose

\*Since data are not available, boating density was measured by observation and ranked from 1 to 10.



at hand more often than not; few fishing trips where one returns empty handed; aesthetically pleasing coastlines (important factors here seem to be variety in the horizontal as well as the vertical dimensions and lack of clutter) with shelter for cruising purposes; or sufficient numbers of individuals interested in sailboat racing. It should be noted that one or two of these factors in combination are often sufficient for intense localized boating development. Wrightsville Beach, North Carolina provides an example where jobs in industry, a sheltered harbor, and interest in coastwide racing within the group and among Wrightsville Beach, Savannah and Charleston, stimulated the growth of a considerable sailboat fleet in addition to the existing sports fishing. Morehead City seems to have as good harbor facilities as does Wrightsville Beach, but has developed strongly in the area of commercial sports fishing. On the basis of natural factors, it could also be a sailboat center. That it is not, is most likely because people employed in the various service industries associated with commercial sports fishing are less likely than are people employed in manufacturing or commerce to wish to go sailing in their free time. Also, as a whole, they have somewhat lower incomes. Thus, socio-economic factors are important but they will rarely, by themselves, cause development. A good example of this is Delaware Bay which, though surrounded by people and wealth, is thoroughly lacking in positive natural factors, and is therefore not intensively used for recreation. Even there, were better harbor facilities provided, it might be possible to increase the use of this body of water.

With respect to conflicts, there are very few significant conflict situations that arise on the water between recreational boating and other users of coastal waters. Statements made nationally that conflicts between sports and commercial fishermen comprise one of the most important marine use conflicts, do not seem to be borne out by events yet. No doubt they will be increasing. Observations and discussions with individuals on both sides of this "issue" suggest that a good deal of mutual understanding exists and that the problems generally are localized and are solved locally with reasonable dispatch. The situation is somewhat different ashore where space requirements for docks and other facilities conflict in certain locations. A lesser, but locally important, conflict is between car transport over bridges and boats on waterways and rivers. This is particularly acute in the Florida portion of the inland waterway system.

Conflicts between boating and commerce and industry are not severe, and seem to center more on pollution than on competition for space. This is a natural result of population concentration in urban fringe areas and of industry's preemption of the urban waterfront. Few boat owners would expect to be able to moor their boats in commercial ports. If conflicts do exist, they appear to be between port authorities and those who wish to construct marinas rather than involving those who might use marinas.

Whereas few conflicts on the water are evident (except for the conflict within boating itself -- crowding), the shoreline use associated with recreational boating conflicts intensively with other uses, primarily those of a residential nature, either year-around or seasonal housing. Port facility conflicts with the commercial fishing industry do not appear to be a problem except in some places in New England; for example, Point Judith and Newport, Rhode Island, and some smaller ports in Maine. It would appear that the boat service industry might place more effort on maintaining inland storage areas with smaller, more compact shoreline installations, particularly in the temperate zone where boats are used

only in summer. There is little doubt that the most serious conflict for boating is the conflicts in popular boating areas between those who live there and may or may not own boats, and those making their living servicing boats, particularly visiting boats.

I would like now to talk a little about conflicts or potential conflicts within what is normally called "boating." One stated goal of this conference is to generate useful discussion on how to alleviate the squeeze and let "boating breathe easier." Well, what or who is "boating," and what would it take to help him, her, or it, to breathe easier. There is, of course, no simple answer to that question, but to shed some light on it let us consider some policies coastal towns may adopt and guess at the reaction we would get from different parts of "boating."

The policies I want to deal with are simply different attitudes on the part of public decision makers with respect to the fairly commonly agreed upon statement that more marina spaces are desired.

Consider four alternative actions on the part of officials:

- A. Do nothing, leave to market mechanism.
- B. Encourage expansion of existing facilities.
- C. Encourage new facilities.
- D. Limit expansion and new facilities.

Then, let us say that "boating" can be broken down in five groups to keep it simple:

1. Makers and/or sellers of boats and/or equipment.
2. Servicing boats and equipment.
3. Present boat owners.
4. Future boat owners.
5. Industry associations and some public agencies.

The lists are not perfect, neither is the assumption that individuals act so they will be best off. But let us see if we can gain new perspective by going through this.

	1 Manufacturers Dealers	2 Waterfront Service	3 Boat Owners	4 Future Owners	5 ASSOC. Agencies	TOTALS
A Do nothing. Leave to market mechanism.	-3 ----- 3	+4 ----- 2	+2 ----- 2	-3 ----- 3	-3 ----- 3	-3 ----- 13
B Encourage expansion of existing facilities.	+2 ----- 2	+5 ----- 1	+3 ----- 1	+2 ----- 1	+2 ----- 1	+14 ----- 8
C Encourage new facilities.	+5 ----- 1	-2 ----- 3	0 ----- 3	+3 ----- 1	+5 ----- 1	+11 ----- 9
D Limit expansion and new facilities.	-5 ----- 4	-2 ----- 4	-2 ----- 4	-5 ----- 4	-5 ----- 4	-19 ----- 20

## TABLE

The table -- assuming that I know what would best serve the self-interests of these groups -- shows first a rating of the policies from +5 to -5. Those numbers appear in the top one-half of each intersection of a policy and a group. For example, group 3 feels +2 (they like it somewhat) about policy A. Quite clearly, the worst possible policy is to discourage growth, but it is not considered equally bad for all. And even that makes a difference to what we may think of as a unified effort. Next up the scale comes the "do nothing" policy, but here it might benefit some and hurt others within boating. The most preferred is the expansion of existing facilities.

The number in the bottom half of the squares is the predicted ranking of the four policies, if each group had to choose from least (1) to worst (4). Thus it becomes clear that groups 1, 4, and 5 have common goals and groups 2 and 3 also rank the policies in the same order.

Both systems would give the greater over-all support to the policy of expanding existing facilities. Thus, if the heterogeneous groups we call "boating or boating interests" were to get behind one of the four policies we have discussed, they could probably muster a lot more support from all "constituents" by choosing policy B, the expansion of existing facilities. This does not mean that in places where, for example, surplus government lands become available, boating facilities should not receive support. They should. But it suggests that in cases where shoreline is already owned or in use, boating interests would do well to first bring their own house in order in the sense of finding out who would benefit and who would not, for there will be formidable battles ahead in the competition for waterfront locations.

I would finish with the statement that in some places boating facilities should probably not be permitted to expand, for the protection of the people in it, while at other locations much can be done to increase this form of outdoor recreation. Under those circumstances, boating industries must realize they are entering a new era; no longer can the industry merely try to promote growth -- they must now do what is much more difficult, participate in intelligent public decision making about how our shores and coastal waters can best benefit society.

## OTHER VIEWS: ROLE OF PRIVATE ENTERPRISE IN PLANNING -- BOATING'S GROWTH

### CONNECTICUT AND ITS COASTAL PLANNING

by Richard Palmer,  
Connecticut Marine Trades Association

The role of private enterprise in planning boating's growth is a varied one. It involves all of the basic and readily thought of aspects such as promotional programs, design improvement, etc. However, today there is another critical aspect that must be considered. It involves the availability and utilization of resources suitable for boating, especially access to the water. In the past, we have tended to take this for granted. Rivers, lakes, reservoirs, and the ocean were there literally for the taking.

Today, with the growth of the environmental movement and the expansion of government programs into new, and for them, uncharted waters, we in the recreational boating business must give more thought to and devote more of our energies to insuring access to the waterways. If this is restricted unreasonably, boating will not grow.

The Connecticut Marine Trades Association started working with the State of Connecticut on its coastal planning in 1971 -- almost the beginning of the State's involvement in this area. The first visible effort of any coastal planning in Connecticut started that year with the Long Island Sound Study (LISS) which was a joint effort with the State of New York, funded by the federal government under the control of the New England River Basins Commission. Because we recognize the potential benefits and problems such a study could produce, CMTA sought involvement in the study and we were fortunate. I was appointed as a member of the LISS Citizens Advisory Committee -- a group of some 30 members appointed by the Governors of the two states -- as a representative of boating interests.

LISS spent three and a half years studying the various problems of the Sound, the demands currently placed upon it, anticipated future demands, the ways those demands are and can continue to be met and much more. The result was a 13 volume report discussing everything from shoreline appearance and design to outdoor recreation, to minerals and mining, with a broad series of recommendations. Many of these recommendations have not been acted upon. Legislation recently introduced in Washington by Senator Abraham Ribicoff (D-Conn.) to create a Long Island Sound Heritage program in the Department of the Interior, with initial funding of some \$50 million for acquisition and maintenance as public parts of key waterfront areas, however, will implement some of them.

Generally, the recommendations in the report were acceptable to boating interests although not necessarily brilliant. The result could have been quite different, however, if our interests had not been represented in the study process, not just through contributions at public hearings, but also from within, through those of us on the panel. Those who do not know our industry well, especially environmentalists, need a lot of "educating" and "persuading" and that requires the more constant contact that only comes from involvement on the inside.

As LISS was wrapping up, Coastal Zone Management came along with much the same potential for benefits or problems depending on the direction taken by the

Coastal Zone planners. Again, CMTA worked from the beginning to be actively and directly involved in the Coastal Area Management program in Connecticut. In April of 1976, I was appointed one of nine citizen members-at-large on Connecticut's CAM Citizens Advisory Committee. In a way, this was a perfect example of how active, constructive concern and participation in an area can facilitate participation in later efforts in the same area. Because there were many more groups interested in being represented on this panel than there were positions, it was decided that people would not be appointed as representatives of specific groups. Due to CMTA's long standing and well-known concern about this subject, one of the public officials on the CAM Board actually indicated to his fellow public members that regardless of that decision, he felt strongly that CMTA should certainly be represented. Further, since CMTA had a representative on the Long Island Sound Study, which CAM is using heavily as a resource, our Association could recommend for nomination someone who could provide input from two sources. We at CMTA are convinced that all of this helped us successfully compete for representation.

During the past year and a half, CAM has been working to develop a plan that will enable the State, with local input, to create and implement a coastal development program in an orderly manner to benefit all. Our direct, inside input has again helped insure understanding of and respect for the current and future needs of boating and boat owners.

Shortly after CAM began in Connecticut, and before I was named to that panel, CMTA hired two consultants, recognized as authorities in coastal zone management, to help us determine the best way for us to approach this program so that we could work with it, rather than wait until its work was completed and then find we had to oppose it. Their first recommendation was that we get involved in the basic planning which we have done.

They also pointed out that one of the criteria for federal approval of a plan is that the CAM group must consult with any group which has an interest in the coastal area and has a plan of its own and must resolve any differences between that group's plan and the CAM recommendations.

On the basis of these recommendations, CMTA developed a Statement of Long Range Policy and Goals which we have submitted to CAM. This not only conformed to the federal requirements and helped assure a recognition of boating's needs in the final CAM plan but also helped our organization put down on paper what we are really trying to do. Some difficult decisions had to be made in developing the Statement but it is worth it because we now have a document which CAM must consult -- and, by the way, it is my understanding that CMTA is still the only group in Connecticut which has done this to date -- and a document that clearly and briefly outlines our beliefs as representatives of the private sector about what must be done to insure and facilitate the growth of boating in Connecticut.

We are very proud of this document and we cannot urge strongly enough every other similar organization in this industry to develop a similar document.

CAM in Connecticut is reaching the point of conclusion and expects to recommend legislation to the 1978 session of our General Assembly. At this point in time we do not see any real possibility of conflict with our Statement and needs. I am confident, however, that if we had not submitted our Statement and participated directly in the program, some very real and major conflicts could have developed and boating's growth been hampered.

So, I urge everyone here today to become involved, not just in ways to increase sales and not just in opposing others in their quest for a better environment -- which is a goal that realistically we should all support too since clean water is imperative to boating's survival and growth -- but to work with them. The bottom line is that we are all basically working for the same thing but others will not know and understand this, and therefore make the decisions that will allow boating to grow, unless we are there to explain, persuade and educate.

## OTHER VIEWS: THE ROLE OF PRIVATE ENTERPRISE IN PLANNING -- BOATING'S GROWTH

### WHY THE PRIVATE SECTOR CAN'T GO IT ALONE

by George Rounds, Secretary  
National Association of Engine & Boat Manufacturers

The traditional role of private enterprise as the sole provider of boating facilities is no longer realistic nor possible. A coalition of organizations bringing private enterprise, the public, governments, and institutional forces to bear is now necessary because of:

1. Restriction of law
2. Restriction of property availability
3. Restriction of environment
4. Adverse public opinion

Government: I choose to view government as a potential source of cooperation and funding in facilities development. Cooperation from government is needed to help make the development of facilities possible by including boating in its long range recreational planning, and government must be convinced of the desirability of re-examining current restrictions, both local and national, on development. Government will respond if the other three partners in the coalition apply rational pressures and present a clear statement of the need. Private enterprise can help with that pressure as an information source and as coordinator.

Institutions: The research and advisory services such as Sea Grant and the Marine Advisory Service program can provide a rich source of third party data to support the other three members of the team and can help identify the needs and provide the creative solutions through research into new technology and techniques.

Again, a solid interface with private enterprise is necessary to define industry's needs.

The Public: This vast source of political strength is presently under-utilized, mainly because the "good guys" -- the boating public are not organized into a cohesive force. Industry and the institutions might be able to pull some of that force together. At the very least, we can do our utmost to inform that sea of humanity about the problems, and the solutions.

Private Enterprise: With perhaps the highest stakes in this game, private enterprise faces the toughest tasks:

1. Overcoming adverse public opinion
2. Amassing valid supportive data
3. Seeking creative solutions
4. Finding the dollars -- in its own pockets or unlocking other resources such as the BOR's Land and Water Conservation Fund



5. Simply staying alive in a fickle business; keeping those facilities that are now operational

We can identify the need. NAEBM is compiling a sampling of facilities availability and need across the country. To give you a taste of the results from 233 marinas who have responded from 13 major boating states:

26,000 slips in use

13,000 slips needed at this time

9,000 boatmen identified as on waiting lists

21,000 additional slips potentially available if...

the stumbling blocks to expansion of existing facilities were removed. Projecting these numbers upward on the basis of an estimated 4,500 marinas and yards in the United States we would estimate:

507,000 slips in existence

253,000 slips needed now

409,500 slips that could be added to existing

facilities immediately, if we could overcome the blockages of environmental opposition and lack of capital funding -- the two major impediments to expansion and lack of capital funding -- the two major impediments to expansion cited by the marina operators themselves. Capital funding is in short supply in part because of the low return on investment that marina development represents and the lack of bank financing caused by a shortage of reliable operating ratio data on marinas.

If environmental opposition is indeed the major problem -- and the marina owners so stated in their responses -- then all of us have a major task ahead. We have to turn around public and governmental opinion on the environmental relationship of public recreation facilities on the waterfront -- we need more solid information on the compatibility of boating facilities with the marine environment. And we need to tell the facts loudly and clearly. I believe industry has an obligation to get the word out, but that word must have the "white hat" character of the non-vested interest such as the institutional imprimatur or government blessing.

Finally, I believe that the focus has to be at the local level. While the problem is national, the battle is local, the opposition is local, the benefits are local. Therefore, a good measure of our effort must be toward developing an awareness among local industry members of the need to become involved in coastal zone planning, to retrain the public, to organize the boating public, and to educate the financial community.

From a national position, NAEBM's job is to assist the state and local business community in achieving these goals by providing proper and sufficient data, organizational help, creative engineering, and public relations help.

The engineering help is available in the form of NAEBM's marina series of publications. A step toward improving the public image of boating has been taken with the introduction of the film/lecture program "Boating Dollars Make Sense."

We also have been trying to make the 30 local and state trade groups that are affiliated with NAEBM more aware of the vital need for them to get involved in the broader picture of facilities planning on a local level -- to get them involved in the coastal zone planning process; in state boating councils, and in local governmental processes.

Also from a national position, we are deeply concerned with the survival of the facilities that we already have in existence. Those 233 marinas that responded to our survey report that yard and marina closings in the past five years have cost boating 6,700 slips, and that is probably only the tip of the iceberg. We have an obligation to try to prevent such losses by enhancing the profitability of marinas. This means finding ways to increase the operating efficiency of the yards and marinas across the nation by providing management information -- available in the NAEBM marina publication series -- and ongoing management training programs. I believe there is a role for the marine advisory services in providing the latter.

We, the manufacturers associations, also have staged a major drive to overturn the crippling effects of the Longshoremen's and Harbor Workers' Compensation Act amendments as a step toward reducing the cost of operation of marinas and yards.

Again, I choose to view private enterprise as a partner with government, the public, and the institutional resources available, and as a stimulator, an information source, and then, as the operators on the front line of the marinas, yards, ramps, and moorages serving the public. The private sector is but a part of the total matrix of action centers that must be brought to bear on the total problem.

RHODE ISLAND HOST STATE DAY: FOCUS ON LOCAL PROBLEM SOLVING

by Christi Duerr,  
University of Rhode Island Marine Affairs Writer

From a national perspective on boating problems, the National Boating Facilities Conference turned to boating and its assets and problems in Rhode Island.

In the opening session on managing Rhode Island's boating shores, speaker John Lyons, who chairs the Rhode Island Coastal Resources Management Council, explained how this body is developing and implementing a coastal management program in Rhode Island.

For the past seven years, the Council, aided by its staff, state agency personnel and the University of Rhode Island Coastal Resources Center, has been identifying the state's coastal resources, developing policies for use and management of resources and granting permits for activities within the coastal areas. Throughout this process, Lyons pointed out, the marina industry has provided input, and the Council has attempted to incorporate and address boating concerns. A recent example, Lyons said, was a meeting planned with harbor masters in Rhode Island to discuss mooring systems in the various town harbors and how these systems could be expanded to meet the growing demand for moorings. The Council has also requested the Coastal Resources Center to begin in July, 1978, a major study of recreational boating in the state, its problems and how the Council might be able to stimulate the development of solutions to these.

Lyons was followed by Mike Collins, vice president of the Newport Shipyard, who stressed the necessity for private industry to work more closely with coastal management agencies. He added that the industry's survival depended on the success of this interchange.

From a discussion on Rhode Island's coastal management, the conference program went on to look at an exciting new proposal for coastal recreation in Narragansett Bay, the Bay Island Park System. Developed by University of Rhode Island researchers and students in conjunction with state agencies, the proposal calls for instituting a series of state parks on islands in the bay and linking these with ferries. A slide presentation on the system was shown by Dieter Hammerschlag, a member of the University of Rhode Island community planning department. He explained that the islands would serve a wide variety of recreational interests such as bathing, picnicking, fishing, sightseeing, boating and hiking.

Following Hammerschlag's presentation was Ed Bliven, then chief of the division of boating safety within the Rhode Island Department of Environmental Management. He told the audience that he felt "boaters should not hide from the state but speak out so that they are represented in state decisions." He explained that one of the things he had done to encourage this speaking out was to organize the Boating Council. This is composed of sixteen groups who are involved in one way or another with boating. At their meetings the members discuss proposed regulations, legislation and ways to increase awareness of boating.

Alan Remington, a yachtsman from Barrington who followed Bliven, agreed that the private boat owner is afraid to speak out. He feels that it is because the individual thinks that municipal and state involvement in coastal management will cost him money.

The morning session ended with a slide presentation on Rhode Island's tourist attractions. It was presented by Leonard Panaggio, director of the tourist travel division within the Rhode Island Department of Economic Development.

The same afternoon conference participants had the chance to see first hand some of the boating facilities and coastal recreation spots in the Newport area.

The first stop on the field trip was at the Coast Guard marina, adjacent to the conference hotel. The hotel, marina and condominiums located on Goat Island were all built by private developers on the site of a former Navy torpedo factory. The marina is typical of a first class Northeastern marina. Its design uses pressure treated wood pilings supporting fixed piers and anchoring floating wood docks. It offers all services except those of a boatyard. It can handle large pleasure craft but the average size range of the boats which use it is from 30 to 45 feet. Last summer it was the home of the New York Yacht Club which sponsors the America's Cup race; it serves also as the home for many of the international sailboat races. It offers transient boaters a convenient place to stay as downtown Newport is within walking distance.

The second stop on the tour was Bowens Wharf which fronts Newport Harbor in the heart of downtown Newport. Private developers bought and renovated this former commercial and industrial stretch of waterfront. Designed to keep the quaintness of a traditional seaport, the area houses stores, marinas and restaurants as well as the major landing point for lobsters in the Northeast.

Across from the water from Bowens Wharf lies Ft. Adams. This site, which guards the entrance to Newport and the East Passage of Narragansett Bay, has had forts located on it from the early 1600's. The present fort, one of the largest of its kind, was built in the early 1800's. The fort and its surrounding lands are now a state park. The fort itself is used for numerous cultural and musical events. There is a public boat launch in Brenton Cove, at the opposite end of the park from the fort. This cove is full of mooring sites and is a popular stopover. The park also has two large fishing piers which were built by the Bureau of Outdoor Recreation with boating monies. However, these docks are too high for small craft and are used mainly for fishing. Every fall they are also used by the Newport International Sailboat Show which leases the state park each year for its successful sailboat display. The conference participants were given a look at the floating tire breakwater which is used to protect boats in the sail boat show. This is an inexpensive breakwater developed by the University of Rhode Island Sea Grant Program for use by marinas and boatyards.

From Ft. Adams, the group traveled to Benton Park, one of the most popular vantage points for watching major boating events such as the Tall Ships' visit and the America's Cup races. Bureau of Outdoor Recreation funds went into building of the park.

The fourth stop was a visit to the Breakers, an attraction for all tourists who come to Newport by land or water. This is the most elegant of the mansions built as summer cottages by the American wealthy in the late 1800's. On the water side it is bounded by the Cliff Walk, a six-mile trail which winds around Newport's rocky shore and offers a glimpse into the grounds of many of Newport's mansions.

The final stop on the tour was at the Portsmouth factory of Pearson Yachts, a division of Brumman Allied Industries. Company executive Gordon Woodland gave a tour of the factory which produces high quality fiberglass sailboats. The group was shown all the steps from the initial lay up to the outdoor testing. Woodland emphasized that organization, cleanliness and efficiency are important for quality products and therefore the company stresses these in the factory. He also mentioned that the company has expanded with construction of a new factory in Texas.

From Pearson Yachts, the tour participants returned to a tent set up on the hotel grounds. There, a Rhode Island clambake -- cooked in the traditional manner with trays of lobsters, corn, potatoes, fish, clams and mussels laid on top of hot rocks, covered with seaweed and canvas and steamed for hours -- was the group's evening fare. The day concluded with a night cruise of Narragansett Bay aboard the 92-foot Fiesta Clipper. Champagne for the group was provided by the Rhode Island Marine Trades Association.

## INTRODUCTORY REMARKS: RIPARIAN RIGHTS

by Ron Stone,  
Boating Industry Associations

When Bob Shephard, Ken Hutchinson, Neil Ross and I were planning this program, we got to thinking that it is one thing to speak in terms of creating and managing water access for boating and related recreation. It is another thing to preserve access to public waters against private property holders around a lakeshore or coastline who resent outsiders and think the water is their private domain. I could cite many cases where boating has been shut out by local ordinances ostensibly in the name of safety or environmental protection, but really a coverup for self-serving private property interests.

We thought it would be useful at this conference to explore boatmen's vs. property owners' rights, as they have been litigated in courts of law. It's an area called Riparian Rights.

Will you please welcome Dr. Francis Cameron, Marine Affairs Department at the University of Rhode Island, to speak on this subject.

## EVERYTHING YOU WANTED TO KNOW ABOUT RIPARIAN RIGHTS BUT WERE AFRAID TO ASK

by Francis X. Cameron,  
Assistant Professor of Marine Affairs  
University of Rhode Island

The problem of riparian rights can best be characterized as an example of the conflict between public and private rights in coastal areas. The concept of riparian rights is a traditional legal doctrine that creates and protects certain private property interests. Balanced against these private property rights is another traditional legal doctrine -- the public trust -- which is designed to protect the public's interest in coastal resources. Complicating this balancing of public and private rights is the fact that states are generally free to define the extent of these rights according to their own views of the public interest. This not only means that the law will be different from state to state, but also that a state is free to legislatively change the scope of these rights according to changing views of the public interest. Coastal zone management legislation can be seen as a basic alteration and application of the common law doctrines of riparian rights and the public trust. The nature of these rights and the extent that they have been changed legislatively, does have a potentially serious impact on shorefront owners, especially those involved in the boating industries. I would like to discuss the origin and development of riparian rights, and look at their impact on boating facilities by focusing on one California case -- Colberg vs. State, 432 P. 2d 3 (1967).

Simply stated, the doctrine of riparian rights is that an owner of land on a body of water has individual property rights to use the waters. These rights are different than those of the public to use a water body for navigation. Riparian is from the Latin word "riparius" which means "belonging to the banks of a river." However, riparian rights also apply to property that fronts on a lake or the ocean. Strictly speaking, an owner of property on the ocean would be called a littoral owner. However, courts and legislatures have used the term "riparian" to include ownership of land on any body of water, whether it be a river, a lake, or the ocean. I'll be using the term riparian in this sense.

Precise origin of the doctrine of riparian rights is unknown. However, it did appear in the early Roman law, was later recognized in the French law by the Code Napoleon, and emerged in the common law of England and the United States. As practiced in the United States, state law governs the extent and nature of riparian rights, subject to the federal power to regulate navigation and commerce. For example, most states grant riparian ownership only to the high tide mark, while Massachusetts and Delaware are among the minority that grant the riparian ownership to the low water mark. The State of Washington has denied riparians special property rights of any kind. Part of the confusion surrounding riparian rights results from the fact that each state can follow different rules.

Riparian rights generally consist of access to the water, construction of wharves and piers, an unobstructed view, ownership of accretions to the property, and sometimes preference in the purchase of tidelands. Once again, this may differ from state to state. However, even in those states where all these rights exist, they have always been subject to the paramount right of the state. Under the English common law a riparian owner had no right to wharf out without a permit. This was changed in the American colonies in order to encourage navigation and commerce. The general rule here was that a riparian could erect wharves and piers without a permit, as long as they didn't interfere with navigation or other riparian owners. Courts have stressed, however, that the riparian right of wharfing out is subject to legislative regulation for the protection of the rights of the

public whatever they may be, Nugent vs. Vallone, 161 A. 2d 802 (1960). As the development of coastal property increased, and as states became more aware of ecological considerations, more and more states have legislatively changed their early permissive approach to the right to wharf out. This is a very good example of how the nature of riparian rights can change over time.

Of all the riparian rights, the most fundamental is the right of access to the water, or as the Rhode Island Supreme Court termed it, "access to the great highway of nations." Clark vs. Peckham, 10 RI 35. Historically, the common law did not recognize any rights of access to public waters. Today, nearly all the states, either by statute or by judicial decision, have changed the original common law view, and do recognize rights of access as a valuable property right of the riparian owner. The most important question concerning the right of access is whether the state termination of this right requires compensation to be paid to the riparian owner. This question obviously has important implications for private boating operations and I'd like to illustrate this by a 1967 California case, Colberg vs. State.

Colberg and Stephens Marine owned and operated shipyards for the repair of yachts on the Upper Stockton Channel, a navigable waterway leading to the Stockton Deep Water Channel, and eventually to the Pacific Ocean. The state of California, as part of an interstate highway system, proposed to build two parallel highway bridges across the Upper Stockton Channel a few hundred feet from the shipyards. The bridges were to have a vertical clearance of 45 feet. Unfortunately, most of the ships utilizing the shipyards stood much higher than 45 feet above the water line, and the yards would lose as much as 81% of their business. They sued the state for compensation on the theory that construction of the bridges would be taking of their private access to deep water. The California Supreme Court decided that the interference with this private property right, even though substantial, did not entitle Colberg and Stephens to compensation because of California's superior powers over navigable waters.

Courts have always excused the state from paying compensation for interference with private property if navigable waters are involved. The state is regarded as having special powers in this area because it holds all navigable waters and the land underneath them in trust for the benefit of the people of the state. More important than why an exception is made in these cases, however, is the question of how wide power is. There are two divergent principles on this. The general rule is that the state's special power is limited to situations where the state has acted to improve and control navigation, for example, straightening a channel as opposed to building a bridge or a dam. The minority principle, followed in Colberg is that a state does not have to pay compensation no matter what the purpose of the project is, as long as navigable waters are involved. The court, in Colberg, followed the principle that the state holds navigable waters in trust for the people for the purposes of navigation, commerce, fisheries and the benefit of the public generally. In a broad interpretation of the word "commerce" the Colberg court found that although the highway bridges may not have been an aid to water-borne commerce, the fact that another form of commerce -- automobile traffic -- was aided, was enough for the state to avoid paying compensation. The court's policy justification for this broad interpretation was that the strict limitation of the principle to cases involving improvements to navigation came from a time when the only use of navigable waters was surface water transport. The times have changed -- the demands of modern commerce, the concentration of population in coastal cities, new transportation technologies -- required the state to take a broader view of how the use of public trust waters would serve



the general welfare. In Colberg, the bridges were a use of navigable waters for which the state did not have to pay compensation.

However, there is also an important policy reason against the uncompensated taking of the riparian right of access for a broad public purpose. Owners of riparian property will be reluctant to develop their land because of the fear that it would be lost through government exercise of its power over navigable waters. A recent Alaska case, Wernberg vs. State, 516 P. 2d 1191 (1974), refused to follow the Colberg decision, citing as one reason, the effect on land values. A large number of Alaskan communities are located on the shores of bays and inlets in order to gain water access for transportation, shipping, and fishing. Most of the development in these communities is on the waterfront. The court feared that if riparian access could be taken for any public purposes, this would immediately devalue property and limit the development of many isolated communities whose only means of access is by water. Also, as the dissenting judge in Colberg argued, doesn't fairness, logic, and public policy suggest that compensation should be part of the cost of the freeway, and should not fall on the individual property owners, but rather on the public, who benefits from the project? Aren't these property owners contributing more than their proper share to the public welfare?

Some courts have followed the general rule that the project must be for the improvement of navigation in order to deny compensation, but have reached the same result as the Colberg court did. This is accomplished by defining the right of access very narrowly. These courts only recognize a right of access to the water immediately in front of the riparian land. Once the riparian reaches the navigable water in front of his property, then he no longer has any special rights. It becomes a public right - the right to navigation - and the state's interference with it is not compensable. The policy behind this reasoning is that courts would otherwise be subject to a large number of claims from riparians who were affected by the project -- even those miles away from the bridge. This type of reasoning can achieve absurd results -- what good would Colberg's access right do him if he could launch his ships but they had no place to go?

The results of the Colberg decision have also been applied to other fact situations. The city of Santa Barbara constructed a breakwater that interrupted the currents of the bay. This prevented the natural accumulation of sand on a hotel owner's beach and eventually ruined the beach and his business. The Supreme Court of California found that his riparian right of sandy water was subordinate to the state's right to control navigation. Miramar Company vs. City of Santa Barbara, 143 P. 2d 1. Colberg has also been applied to cases where the state or its grantee has filled tidelands in front of a riparian's property, thereby cutting off his access to the water. Once again, the Supreme Court of California denied compensation for this loss of access on a broad reading of the public trust. City of Newport Beach vs. Foger, 102 P. 2d 438.

This principle of non-compensation only applies to government action. A private party cannot deprive a riparian of his right of access by placing a structure or filling in front of the riparian's land. However, once again the states differ on the amount of access required. Some states allow a riparian access over the entire frontage of his property while other states only grant the riparian a reasonable and convenient access to the water. In the California case of Marks vs. Whitney, 491 P. 2d 374 (1971), Marks and Whitney were adjacent riparian property owners on Tomales Bay in Marin County. Marks also owned a strip of tidelands along the entire frontage of Whitney's property. He wanted

to develop these tidelands by filling. This development would almost completely cut off Whitney's access to the water. The trial court found that Whitney had a reasonable right of access to the water, not access over the entire frontage. Whitney was dissatisfied with this result and appealed. This time he based his case on his status as a member of the public suing to enforce the public trust, rather than basing his suit on his status as a riparian owner. The Supreme Court of California, following the accepted rule, held that all tidelands are subject to the public trust for the purposes of navigation, fishing, recreation, and conservation, even though the tidelands in question were sold years before, the owner Marks could not wipe out the public trust by developing these tidelands unless the legislature made an express statement that they no longer had any value for public trust purposes.

The state of New Jersey strictly reviews any sale or lease of tidelands to ensure that the public trust will be served. Marine development is usually found to be an activity which benefits the public trust since marinas promote access and enjoyment of the water -- in New Jersey the riparian owner also has a pre-emptive right to buy or lease the tidelands in front of his property.

To summarize, riparian owners do possess special property rights. However, these rights are subject to public rights in navigable waters. The extent to which the private riparian right is affected by the public right depends on the policy of each state. In some cases an inequitable burden may be placed on the private property owner. Courts are not the best mechanism to deal with the complex issues involved in allocating coastal resources between the public and private property interests. This is a policy question that should be addressed by the legislature and the political process -- and should be implemented through some type of comprehensive coastal zone planning process.

## BOATING FACILITIES INFORMATION

WHERE DOES THE BOATMAN GO WHEN HE'S WONDERING WHERE TO GO?

by Ron Stone,  
Boating Industry Associations

One of the basic objectives of this conference is to generate information.

If anyone needs information, it is today's recreational boatman.

Boatmen in many parts of the country are lost, or moving in circles. For lack of adequate information they do not know where or what facilities are available for launching, mooring, docking, storage or cruising.

One reason boating facilities are so overcrowded in some areas may be the lack of news or publicity about facilities in other areas which boatmen would visit if they only knew.

Yes, there are pamphlets published by state tourist agencies and by the Corps of Engineers describing recreational opportunities at specific water areas, but generally they are sketchy when it comes to boating facilities. A dot on a chart indicating that an area is open to boating, or a symbol on a map representing a public access site does not tell the boatman what he will find there by ways of necessities or conveniences.

True, private publishers have produced some comprehensive cruising guides, but mostly they are limited to coastal waters. There is a scarcity of information about facilities on our vast inland waterways system.

My organization has tried to fill the information gap with its public service series called "Sources of Waterways Information." In five separate regional listings, plus one for Canada, we tell the boatman what guides, maps, brochures and other facilities information we know to be available from state to state, give him a brief description of the material, and furnish the name and address of the government agency or publishing house where he can write for the information. Most of the information is free for the asking. Where there is a price, we tell the boatman that, too.

"Sources of Waterways Information" has to be among our most popular literature. The requests for it pour in from all over the country every week.

Yet, I will be the first to tell you, it is not enough. It is only scratching the surface.

Who among us knows for certain how many boating facilities, public or private, there are in the United States today?

According to the last annual statistical report published by the industry there are 6,025 marinas, boat yards and yacht clubs with waterfront stations in the United States. The estimated breakdown is 4,965 marinas and boat yards and 1,330 yacht clubs. At best this is guesswork. At worst, if it were a hard, cold count, then the boating population would really be in a bind. With more than 7 million boats officially registered by the states and the Coast Guard, if we accept the industry estimates, there is only one facility per 1,200 boats.

The U.S. Bureau of Outdoor Recreation, which is in the business of assessing our nation's outdoor recreation needs, doesn't have any better idea of how many boating facilities are out there. Two or three years ago they commissioned a nationwide inventory of privately owned recreation enterprises of all kinds, which provides very broad brush figures.

We need much more than this. By we, I mean the boating public, the boating industry, and recreation consultants in and out of government who are responsible for boating.

We need to inventory existing facilities and make projections for expansion necessary to meet growing demands.

This is an area we believe, where the Boating Industry Associations, Sea Grant, and the Bureau of Outdoor Recreation can join forces. What I am suggesting is a matching grant for a nationwide boating facilities survey.

Such an inventory would be doubly helpful in filling the existing public information gap and in pinpointing acute shortages so recreation planners are more sensitive to boating's needs.

The survey I have in mind would transcend fuzzy generalities. It would be designed to provide information on the number and kind of public ramps and related parking facilities, the number of slips (permanent vs. transient), breakdown by length of slips, user fees and occupancy rates, the numbers on waiting lists, expansion plans, access roads, pumpout stations, and more.

We already have been in touch with Sea Grant, brainstorming on what needs to be done, how it should be done, and what it would cost. We are waiting upon the Bureau of Outdoor Recreation to help us make it a truly nationwide survey.

## COASTAL PLANNING FOR RECREATIONAL BOATING AND BOATING FACILITIES:

### A SURVEY OF STATE COASTAL ZONE MANAGEMENT AGENCIES

by James M. Falk, Recreation and Parks Department  
Texas A & M University

My presentation this morning is the culmination of a research project undertaken this past summer under the supervision of Mr. Neil Ross. The contents of this presentation will complement Dallas Miner's Federal overview of coastal zone management, however, becoming more specific and concentrating on state coastal zone management agencies and the roles they are playing in response to the tremendous growth recreational boating has enjoyed the past few years. I selected coastal zone management agencies to focus on since their primary objectives, according to the Coastal Zone Management Act (CZMA) of 1972, are to develop and administer coastal management programs which will orderly allocate coastal resources in their respective states. If a state decides that recreation, and recreational boating in particular, is an important issue in their state, boating access through facility development must be dealt with in their coastal zone management plans, in some fashion.

There are three basic elements that must be understood before we can see the important relationship that exists between coastal zone management and recreational boating. First of all the coastal zone management process itself encourages states to exercise full authority over the lands and waters of their coastal zones. This can be done by including policies, regulations, standards and criteria, etc., in their coastal zone management programs.<sup>6</sup> States must also demonstrate that they have notified and provided an opportunity for full participation in the development of their management program to all public and private agencies and organizations which are likely to be affected by or have a direct interest in the program.<sup>6</sup> The essence of coastal zone management after all is to reorder the way decisions which affect the coast are made, both public and private, where these decisions are of "statewide concern."<sup>1</sup>

Secondly, we must understand the nature of the recreation component and its relationship to coastal zone management. With more than 75% of our national population concentrated in the 30 coastal states, tremendous demands are made for access to waterways and shorelines for recreational purposes.<sup>4</sup> The CZMA provides general language regarding recreation and open space. However, the rules and regulations for the coastal zone management program administration grants are specific in identifying recreation, including beaches, parks, wildlife preserves, sport fishing, and more important to this conference, pleasure boating as a basic element in the comprehensive coastal management program. Within this framework, critical coastal areas can be inventoried and designated for recreational purposes. If recreation is regarded as a priority use, a coastal recreation element may be developed.<sup>2</sup>

A key task of the program development is the coordination of recreation planning activities with other existing federal, state and local programs. In almost every coastal state and territory, efforts have begun to integrate coastal recreation planning with State Comprehensive Outdoor Recreation Plan (SCORP) programs administered by the Department of the Interior.<sup>5</sup> The development of SCORP's are administered through financial assistance from the Bureau of Outdoor Recreation. The Land and Water Conservation Fund Act (LAWCON) of 1964 designated the Bureau as the lead agency responsible for allocating federal money to states for facilitating outdoor recreation planning, acquisition and development activities.

The third element that must be understood is the concept of planning for recreational boating. Boating requires extensive shoreline facilities such as marinas, docks and boat ramps that must be located at the water's edge often competing strongly for valuable waterfront space. The many other commercial and recreation uses of the coastal zone make careful planning of the siting and design of boating facilities important.

Recreational boating in its short history has enjoyed virtually unrestricted access to waterways and rapid development of marinas and service facilities. However, times are changing, more people want more access to waterways for more purposes. The shoreline is in great demand by a variety of interests and the coastal zone planning process must eventually decide the fate of these interests.<sup>4</sup>

The coastal planning process as it involves recreational boating and facility development is not a simple process. There is almost no argument as to the need for methods of rational planning, management and modes of implementation, but agreement on the basic need has not led to a consistency of practical thinking that is sorely needed.<sup>3</sup>

The issues related to coastal planning for the recreational boating population have existed for quite a while, with the degree of controversy varying. The most critical problem areas that are limiting the growth of additional boating facilities include: Permits, environmental concerns, the high cost of development, low return from marina investment and the competition for coastal lands.

Decision makers must take a close look at the supply and the demand of recreational boating along with the critical factors that are hindering future development of facilities. In the past, coastal planning for recreational boating has been a "wait and see" type of development process. This slow process has finally caught up to the recreational boating interests. Since recreational boating has grown at such a tremendous rate in the past few years and facilities have not kept up with the growth, recreational boaters are faced with a severe shortage of facilities in many areas. State coastal zone management programs if prepared and administered effectively can help alleviate some of the problems facing recreational boaters.

Since very few states have anything in the way of completed coastal zone management programs or drafts, information regarding coastal zone management activities related to recreational boating were obtained from a variety of sources. Initially, each state coastal zone management office was contacted inquiring whether:

- (1) Their state was actively planning and/or managing for recreational boating and if so, what were the main areas of concern (i.e., public access, water quality, dredging, etc.)
- (2) If recreational boating and facility development were areas of interest, which user groups (i.e., marine trade association, boating organizations, etc.) were involved in the planning process.

- (3) If no planning for pleasure boating was currently taking place, did they anticipate beginning.

Of the 30 coastal states and 3 United States territories surveyed, 3 states provided no usable information, leaving a total of 30 states and territories to analyze. Nearly all related that they relied on SCORP data to some degree in formulating the recreation element of their coastal zone management programs. This seems only right since SCORP planning has existed for more than 10 years and it would stand to reason that states would have some information (even in a limited form) concerning recreational boating along their coastlines. I think the important factor in using SCORP data is what the coastal zone management agencies do with the data once they have retrieved it from state plans.

Some states have suggested taking SCORP information and using it verbatim within their state coastal zone management plans to satisfy their coastal recreation elements. This would mean all you would see is supply and demand data for coastal recreation. I think state coastal zone management agencies need to go beyond this type of "planning" and concentrate more on policy and management decisions and use the data, if accurate, to its fullest.

Of the 30 analyzed states, 8 had either completed coastal zone management programs or drafts, 4 others provided information through coastal zone planning documents with related recreational boating information. These 12 states were focused on as the most progressive in regards to planning policies and regulations related to recreational boating and facility development. The states were: California, Florida, Hawaii, Maryland, Massachusetts, New Jersey, Oregon, Puerto Rico, Rhode Island, Washington, Wisconsin and the Virgin Islands. The 12 states are diverse in their approaches to recreational boating and facility development, but they are all concerned to some extent with the vital issues as listed in their coastal management programs and planning documents.

Of the remaining 18 states, all of them said that their SCORP agencies alone, or in conjunction with state coastal zone management agencies would provide the basis for their coastal recreation elements in the future. In addition, numerous states had state boating agencies and/or state waterways divisions that also complement their respective state coastal zone management offices in the planning process.

Focusing on the 12 states with specific coastal management policies related to recreational boating and facility development, the major policy issues that stand out include:

- (1) New recreational boating facilities but minimizing adverse environmental impacts.
- (2) Encourage the multiple ownership of boats.
- (3) Identify sensitive water quality areas and prohibit the discharge of wastes.
- (4) Utilize modern marina techniques, including dry stack storage.
- (5) Undertake comprehensive evaluations for potential marina sites.
- (6) Public boating facilities should be financed through user fees.

An additional unique policy mentioned by a couple of states included improving

landscaping around marinas for aesthetic purposes. To my knowledge these policies and regulations developed by the 12 states included little involvement from recreational boating interests, or the policy language might have been much stronger.

In conclusion, the coastal planning process is a valuable tool to the recreational boating interests if effectively utilized. The Coastal Zone Management Act "invites" special interest groups, especially boaters and the boating industry, to voice their opinions to state coastal zone management agencies. Organized boating interests must act now as a group to see that they are given a fair share of consideration in their state coastal planning processes.

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INTRODUCTORY REMARKS -- MARINA DESIGN PROBLEMS

by Ron Stone,  
Boating Industry Associations

Earlier in the Conference I mentioned that among other BIA boating facilities literature we offer a "Directory of Architects and Engineers" listing specialists in designing and building everything from a simple launching ramp to a luxury marina. We are privileged to have with us one of those listed in our directory. He is Clinton J. Chamberlain, President of C. A. Chaney, Inc., Hays, Virginia. Presently he is authoring a revised edition of "Marinas," the definitive book on marina design and construction. Mr. Chamberlain will give us the benefit of his experience on problems of marina design, and how to solve such problems.

## MARINA DESIGN PROBLEMS

by Clinton Chamberlain, President  
C. A. Chaney, Inc.

As with all other aspects of the marine recreation business, the ground rules are changing for marina design. Where once we worried about such things as the size of pilings to be used, now we have to worry about how to raise the necessary millions of dollars or whether we'll be disturbing the muskrats. There are a number of illustrations of the changing situation but there are four areas which seem to be most pressing, that seem to be cropping up with greater frequency than ever before. They are:

- A. Problems of space utilization.
- B. Problems concerning choice of materials and systems.
- C. Financial problems.
- D. Problems caused by government agency interference

### A. Problems of space utilization.

Space costs money, and in these days it costs a great deal of money. Obviously, a marina design must take every possible measure to utilize all available space efficiently. Beginning with a marina's water space we:

1. Pay very careful attention to the mix of slip sizes. Currently we use a gaussian distribution of slip lengths with a mean at 35 ft., and we install no slips shorter than 25 ft. On the other end we install slips longer than 50 ft. only at the owner's insistence. Unfortunately there's no winning -- today's boats are wider than ever -- there's been almost a one foot increase in average beam for 35 foot boats in the past four years.
2. Reduce fairway width. In the past fairway widths were supposed to be 1.75 times the length of the longest boat, but we are currently specifying for problem designs fairway widths of only 1.5 times the longest boat and for really tight situations we'll even go down to 1.25 -- this with full realization of the operational problems that are generated.
3. Keep the widths of finger, marginal and main walkways to a minimum. This normally means six foot widths for main marginal walkways. Wherever possible we specify floating systems since we can safely moor a boat in a narrower floating slip than in a fixed structure. In a row of twenty slips the one foot reduction of slip width means that an extra slip can be squeezed in.

4. Pay very careful attention to location of the various sizes of slips. We normally go through eight to ten permutations, drawn to scale, before we're satisfied with slip layout. For a number of reasons we try to keep all the slips on a particular main walkway the same size. And let me add here that one of the better features of floating systems is the ability to disassemble the system and rearrange it.

Design and layout of the land space is becoming very critical. Wherever possible we suggest a land to water ratio of at least one to one, but this is becoming very difficult to maintain for private marinas. Even some public facilities, such as the new marina in Baltimore's Inner Harbor, are being planned around land areas which by some published standards would be hopelessly small.

The problems of land space utilization have been with us all along, of course, but now we're faced with absurd demands for facilities as never before. Does anybody here really think that a marina needs to have one automobile parking space for every single slip? The trend away from bulkheading, while a good thing in many cases, also takes out of action significant acreage and even worse, makes it all that much more difficult to give access to the slips. The basic factors of land utilization are much the same as for any site plan -- traffic flow, access and the like. But one does have to allow for some unique problems such as travel-lift maneuvering room, winter storage areas and cradle storage. While not difficult these factors and others of a similar nature must be taken into account when preparing a site lay-out. In passing let me note that some of the most egregious monstrosities of marina site planning have come from the boards of some of the nation's largest engineering and architectural firms.

#### B. Choice of materials and systems.

Here I refer only to the water area facilities. Not so long ago there was no choice -- you used wood for everything. Wood is still a good material but properly treated wood for marina installations is now so expensive that alternative materials must be considered. To make matters worse, we have been encountering a number of situations in which treated wood does not meet treatment specifications. I suggest that any specification for wood construction must contain a clause requiring independent assay of treated wood. To forestall a question, we are specifying CCA treatment to 2.5 pounds for most northern installations and dual treatment for pilings and submerged timbers in southern saltwater areas.

It is particularly distressing to see how many of the newer fixed-structure installations are built to inadequate specifications. When Mr. Chaney designed the facilities on the Washington waterfront, he intended them to last at least forty years -- and they have. Except for the deck planks Mr. Chaney's designs are generally in excellent condition to this day. But I encounter every week yet another marina which is rapidly falling apart after only eight or ten years of service. Undoubtedly the crackerbox facilities are cheaper to build but the maintenance costs are going out of sight. In the long run the cheap structures are no bargain.

For a number of reasons we find the floating slip system to be preferred. Frequently both the first cost and the life cycle cost are competitive, a well designed system offers an excellent overall appearance, ecologists like them, and it is usually easier to finance a floating system. There is a catch, however, in that there is a wide divergence in the quality of floating systems. Generally speaking, the home-built system is not worth the time and cost. There are a number of manufacturers of floating systems, some with many years of experience in the field.

Our general specifications for floating systems today call for an unloaded freeboard of the order of 24 inches, a submergence of no more than 0.25 inches per pound of uniformly distributed live load, a point load deck capability of 250 lbs. applied to an area of 8" x 8", and a capability for sustaining a concentrated load of 900 lbs. at any location (such as the end of a finger walkway) with a freeboard of at least six inches. There are a number of truss type structures on the market which can meet these specifications.

Over the years there have been a number of suggestions for floatation devices to support floating structures - empty oil drums to foam filled tires. Proper formulations of polystyrene or urethane foams have given good service but today's thinking is that some sort of protected foam is required. There have been two sources of trouble for unprotected foam -- petrochemical spills and various animals. Muskrats, for example, love to make their burrows in exposed foam blocks. Again, the present day thinking is that foam must have some sort of protection.

The design of floating structures is very complex. We are currently working on a computer model for the various types of construction with which I am familiar. While we still have a long way to go, one thing that has come to light with surprising clarity is that a structure which consists of a series of components held together with hinges is bad structural and kinematic design. For such a system to survive the hinges must be of massive design, and the designer must be aware that the necessary sloppy fit of hinge parts will mean that some part of the hinge is stressed beyond the limits during nearly every flex cycle. A properly engineered rigid connection between modules which permits stress transfer in all six degrees of freedom is to be preferred.

One of the worst faults in marina structure, whether fixed or floating, is lack of rigidity, or at least a sense of rigidity. For a fixed pier to be shakey is inexcusable and the designer should be run out of the county. I feel the same way about designers of floating systems which buck and sway and yaw and twist as you traverse them, but I find it a little easier to understand how it could happen. I know of one system down in Washington, designed by the same people who are giving you a subway system whose bond interest would pay for free bus fares for every citizen in the Washington area. This system is so bad that OSHA required handrails on the main and marginal walkways for the crew that was installing the electrical and water lines. In another major city close by there's a system which uses massive concrete floats held together with stretched cables. The system doesn't respond to wind created chop but oh boy, what a ride you get when the local fireboat goes by. The moral? Floating structures design is very complex and not safely left to amateurs.

### C. Financial problems

Moving on to other considerations, we find that finances affect every facet of marina design, usually adversely. On the one hand we have the pressure from the owner to provide a quality facility at a minimum cost while on the other we have demands from the banks and the various agencies for engineered structures which must meet a set of unrealistic codes and specifications. And neither the owner nor the agencies seem to give a damn about the costs of maintenance and depreciation. To a great extent the fault is ours as an industry in that we have not compiled the necessary data nor structured acceptable standards. I hope that the newly announced steering committee for data collection will be able to generate useful data in these areas.

Our solution -- or at least our approach -- is to use a technique called "life-cycle costing." For those of you who may not be familiar with the term, life-cycle costing consists of a series of estimates for the yearly costs of a building or a set of piers or whatever, taking into account the obvious costs such as maintenance but also striving to include the not-so-obvious costs such as depreciation, fire insurance, cost of financing and so on. By definition, when the real or estimated annual cost of the structure is equal to the annual cost of a new system, the life cycle of the structure has been reached. In our industry we're a long way from having reliable life-cycle cost data but it's coming. And in the meantime we'll search out the best available information from people now in the business of running the facilities.

Incidentally, to say that the life-cycle of a structure has been reached does not mean that the old system is then going to fall apart like the one hoss shay. It only means that continued usage of the system will cost more than it would cost to install and use a new system.

We believe that a minimum design life cycle should be fifteen years for floating systems and twenty years for a fixed pier structure. Although I have seen some floating structures which appear to have the necessary design life cycle I am not familiar with any fixed pier structure built within the past ten years for a private marina (as opposed to a publicly financed facility) which is likely to have this level of structural integrity.

### D. Influence of government agencies

With all the above as preamble, I submit that the over-riding problem facing all aspects of the marine industry today, including marina design, is the debilitating effect of the sustained attack on the industry by the conservation/ecology minded and their handmaiden agencies. Marina ownership is being recognized as a lousy business. No other business community in this country is so beset with witless regulation, regulation based to a large extent on no rational basis whatever. Consider that where the drug industry has to cope with the FDA and maybe the EPA and local zoning type agencies and the steel industry has to cope with EPA and the Department of Labor and maybe a couple of others, the marina operator has to deal with all these agencies and more. An application for dredging and construction permits has to be passed by the Corps of Engineers, the EPA, the Department of the Interior, the Department of Commerce, the FDA (usually through a state agency) and the Coast Guard. At the state level he will have to deal with the health department, some sort of fish and game department (never mind that he had to cope with the federal fisheries and wildlife agencies), a water control agency, and in the coastal state, with a wetlands agency and a coastal zone management agency. Next come the local zoning people.

When we tell our clients not to expect to get permits in less than two years the usual reaction is to say the hell with it.

I believe that the heart of the problem is the discouraging fact that we, as an industry, have allowed the ecology minded to foist off on the public two general falsehoods:

- 1) We are told over and over that pleasure boats contribute significantly to pollution.
- 2) Marinas cause pollution and "destroy the ecology."

Neither statement can be supported by scientific study. True, there have been some studies but they are miserable pieces of work that any statistician can shoot down. And nobody seems to pay attention to the evidence of Newport Harbor in California. There, in an area of a couple of square miles, more than 10,000 boats are moored. And with one exit channel and a six foot tide (once every 24 hours) you will find water which passes the stringent California standards for swimming. If measurable pollution is not generated in the most densely crowded harbor in the world what right has anyone to suggest that it is -- or it will be -- generated in the less densely populated marinas throughout the rest of the country?

As an industry we have rolled over and played dead, and now we're reaping the bitter harvest. For example, in Maryland there's a county engineer who insists on forcing one of my clients to design his shoreside sewage facility on the basis of 130 gallons of effluent per slip per day. We can only conclude that this pinnacle of wisdom believes that boating people spend twenty four hours a day on their boats drinking beer and eating all-bran. But the point is that we in the industry have developed no data with which to refute such nonsense. My client is going ahead with his immense sewage system and the result will cost the slip renters an extra \$100 per year.

And lest you think this sort of problem is just a passing event, let me refer you to a new book which has just been published. It's called "Coastal Ecosystem Management" and is written by John Clark. Because this book was written under the auspices of something called the Conservation Foundation it will no doubt be widely quoted as an authoritative source. I've not had the chance to read the whole book but let me give you a few quotes. On page 405 Mr. Clark states that "Marinas in tidal creeks or estuarine water bodies are particularly troublesome environmentally because the water body is unable to rid itself of marina-source contaminants..." Typically, Mr. Clark does not cite any evidence for this statement alleging that marinas cause pollution. On page 406, referring again to marinas, Mr. Clark states that "An internalized drainage system to collect and restore water runoff and other liquid waste should always be installed." (underlining is mine). And on the same page he states that "Sewage facilities should be designed to meet the maximum capacity of boat slips." End of section. On page 409 Mr. Clark asserts that "sewage from boats has forced the closing of productive shellfish beds near marinas and small boat harbors because of bacterial contamination." I challenge Mr. Clark to cite even one case where bacterial contamination from boats has been proven. He references in following material the arbitrary actions of the Virginia Department of Public Health and I can assure you as a resident of Virginia that there are no such studies in that state.

Finally, to highlight the whole thing, let me cite one more of Mr. Clark's sterling observations. On page 410 he makes this statement: "All marine toilets must be self-contained with the sewage retained and pumped ashore for treatment." And "Anti-fouling paints and outboard engine exhausts are other sources of pollution in marinas." And so on. The rest of the book promises to be equally bad, full of innuendo, statements taken out of context, and outright fabrication. I'm not so much damning a specific book -- it just happens to be the latest in a deluge of similar junk -- as I am decrying a growing problem for our industry. Why do we always turn out to be the bad guys?

The point of all this is that marina design is being affected -- expensively and needlessly affected -- by a rapidly growing body of rules and regulations foisted on us by a body professional (?) and amateur do-good types. We as marina designers are now in the position of having to advise our clients that front-end time before construction can be started is now on the order of two years and the front-end expense is going to be of the order of \$50,000. With that kind of burden can you wonder that even the public agencies are shying away from building new marina facilities?

Unfortunately, for this problem I don't have any solution to offer. We may already be too late to keep boating from reverting to a rich man's sport.

INTRODUCTORY REMARKS -- FEDERAL LONGSHOREMEN'S  
AND HARBOR WORKERS' COMPENSATION ACT

by Ron Stone,  
Boating Industry Associations

In the past few years boat yards, marine dealers and manufacturers, and others with whom recreational boatmen do business, have had a lot of trouble obtaining Workmen's Compensation insurance they can afford. The problem is, insurance companies are requiring coverage under the Federal Longshoremen's and Harbor Workers' Compensation Act, traditionally applicable to commercial ship building and dock workers, insisting that 1972 amendments to that Act encompass the pleasure boating industry. Much costlier premiums are necessary under this Act than under State Workmen's Compensation laws. Since State laws require employers to carry Workmen's Comp insurance, marine businesses have no choice but to accept the insurance companies' position.

This has had a significant impact on the boat owner because boat yards and marinas are either relaying the exorbitant federal workmen's comp insurance costs or cutting back on services to avoid the risk of injury to employees and workmen's comp claims.

The Boating Industry Associations has joined in a class action in Federal District Court challenging the applicability of Federal Workmen's Comp to pleasure boating. The suit is still pending. The National Boating Federation's letter writing campaign to Congress was a factor in getting their Congressmen to recently introduce legislation to specifically exempt pleasure boating from the Act. The bills are S-2020 and HR-8878.

Here to tell you more about the impact of the Longshoremen's & Harbor Workers' Act is Dr. John Fitzgerald of the Department of Finance & Insurance at the University of Rhode Island.

POSTSCRIPT

*On January 31, 1978, the Federal District Court for Northern California ruled that the Federal Longshoremen's and Harbor Workers' Compensation Act does not apply to the recreational boating industry. See the pages immediately following for text.*



IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA

BOATING INDUSTRY ASSOCIATIONS,	)	
et al.,	)	
Plaintiffs,	)	C-76-2550 RHS
vs.	)	
RAY MARSHALL, et al.,	)	<u>ORDER</u>
Defendants.	)	

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Before this Court are cross-motions for summary judgment. Plaintiffs challenge the ruling of the United States Department of Labor -- of which defendants are officials -- that the Longshoremen's and Harbor Workers' Compensation Act (hereinafter, "LHWCA") [33 U.S.C. §§901-950] applies to recreational boat builders and marinas.

Defendants contend that the challenged ruling has not harmed plaintiffs or plaintiffs' members, so that plaintiffs have no right to challenge the ruling. However, if plaintiffs and their members comply with the ruling, they incur considerable expense in connection with maintaining insurance under LHWCA. On the other hand, the ruling indicates that if plaintiffs and their members choose to avoid the expense, the Labor Department may seek criminal penalties against them. Furthermore, if a claim for compensation under the LHWCA is filed against plaintiffs or their members, the presence of the Labor Department ruling would tend to make it more likely that the compensation claim would be successful. The ruling is ripe for judicial review, and this Court concludes that plaintiffs have the right to challenge the ruling [see 33 U.S.C. §938(a); Abbott Laboratories vs. Gardner, 387 U.S. 136, 148-154 (1967); NALOC vs. Schultz, 443 F. 2d 689, 696-697 (D.C. Cir. 1971)].

The LHWCA provides for the payment of compensation in respect of an employee's disability or death resulting from an injury occurring on U.S. navigable waters [33 U.S.C. §903(a)]. An "employee" is one "engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harborworker including a ship repairman, shipbuilder, and shipbreaker" [U.S.C. §902(3)]. Defendants contend that Parker vs. Motor Boat Sales, 314 U.S. 244, 246-250 (1941), held that employment in the recreational boating industry is maritime employment. However, the Court in that case never specifically made such a holding. Indeed its holding appears to be that the employment in the case was maritime because it occurred on U.S. navigable waters.

But Parker was decided long before 1972, when Congress included in the LHWCA for the first time the definition of "employee" quoted above. The definition is in terms of "ship," which in common usage is often distinguished from "boat." Furthermore, it has been held that an employee is not covered by the post-1972 LHWCA, even if he is injured on U.S. navigable waters, unless his work has a realistically significant relationship to traditional maritime activity involving navigation and commerce on navigable waters [Weyehauser Co. vs. Gilmore, 528 F. 2d 957, 961 (9th Cir. 1976), cer. denied, 429 U.S. 868 (1976)]. It would seem to follow that the post-1972 LHWCA excludes from its coverage the recreational boating industry, which involves non-commercial vessels. Indeed, the legislative history of the LHWCA does not indicate a Congressional intention to cover the recreational boating industry.

In light of the foregoing discussion, this Court hereby denies defendants' motion for summary judgment and grants plaintiffs' motion for summary judgment. This Court hereby declares that, to the extent they are engaged in building or repairing recreational boats or operating recreational boat marinas, plaintiffs and their members are not subject to the LHWCA. Defendants are hereby directed to forthwith issue to the insurance and maritime industry a rescission of: (a) the memorandum that is in Exhibit "C" to plaintiffs' complaint; (b) the Notice 21 that is Exhibit "D" to plaintiffs' complaint. The rescission shall state that it is "done pursuant to the 31 January 1978 order of the United States District Court for the Northern District of California in Boating Industry Associations, et al vs. Marshall, et al., C-76-2550 RHS."

However, while plaintiffs contend that defendants lack the discretion to issue incorrect rulings, plaintiffs don't argue that defendants lack the discretion to refuse to take any position at all on whether the LHWCA applies to the recreational boating industry (see plaintiffs' March 18, 1977 brief, p. 17). Thus, this Court will not require defendants to issue any ruling specifically stating that the LHWCA does not apply to the recreational boating industry. However, the aforementioned rescission should clearly state that it is no longer the official position of the Labor Department that the LHWCA applies to recreational boat builders and marinas.

Plaintiffs' counsel, within 10 days of receipt of this order, shall serve and lodge a form of judgment.

Dated: January 31, 1978

Robert H. Schnacke  
United States District Judge

THE CRISIS IN WORKERS' COMPENSATION  
INSURANCE FOR MARINAS

by J.F. Fitzgerald, Jr.,  
Department of Finance and Insurance  
University of Rhode Island

HISTORICAL PERSPECTIVES

In 1972-73, an insurance survey was made of 26 marinas in the Narragansett Bay area of Rhode Island. The results of this survey were published in Rhode Island Marina Insurance, University of Rhode Island Marine Technical Report Number 22, Kingston, Rhode Island, 1974.

This report indicated that property-liability insurance costs, on average, absorbed 1.7 percent of marina gross revenues and were equal to 6.2 percent of payroll costs for the surveyed marinas. Total insurance costs were distributed at that time among five categories of coverage: 4% for Automobile; 6% for General Liability; 9% for Fire and Extended Coverage; 39% for Marina Operators' Legal Liability and 42% for Workers' Compensation.

In 1976, many of the marinas surveyed in 1972 were revisited to learn the current status of workers' compensation insurance.

Without exception, all respondents viewed WC, their largest single insurance expense, as a serious problem. In one instance, the marina's premium in the "Boat Building or Repair" payroll classification had increased 259 percent between 1973 and 1976. In another, a rate of \$2.65 per \$100 of payroll in 1972 had risen to \$5.66 per \$100 in 1975, an increase of 114 percent. A few marina owners said they were considering discontinuing their repair activities "unless changes are made in WC requirements." Other comments, such as "changes are needed," "the small businessman is being given a bad deal financially," "our rates are much higher than for other industries," were representative of a universal concern over WC costs.

That this concern in Rhode Island is shared throughout the national marina community can be documented from bulletins published by the American Boat Builders & Repairers Association, Inc., (ABBRA), excerpts from which provide a diary of specific developments in the evolution of the WC problem for small boat yards and marinas.

Excerpts from ABBRA Bulletins

April 21, 1975

Many of us sell on a fixed price basis and are severely hurt by the cost increases brought about by the law (1972 Amendments to the Longshoremen's and Harbor Workers' Compensation Act).

June 14, 1976

The Navy's cost for injury claims by shipyard employees averaged \$3.5 million a year between 1969 and 1973, but in 1975 it was \$17.1 million. Mr. Gary Penister, Assistant Secretary of the Navy, recently stated that shipyard workers are using the program "as an opportunity for income without working for it."

September 10, 1976 (Quoting the July, 1976 issue of Marina Management and Marketing)

The problem of getting workers' compensation for marina employees has changed from acute to critical with policies being cancelled from right and left.

December 27, 1976 (U.S. Department of Labor, Employment Standards Administration, "Task Force Report," December 24, 1976)

Only one administrative law judge decision has been issued involving a small recreational boat builder in North Miami Beach, Florida, (Napoles vs. Donzi Marine, Inc., 76-LHWCA-265), and in that case the injury was found to be covered by the Act.

(The Donzi Appeal)

Responding to an appeal brought by NAEBM and BIA in the case of a claimant injured while working for Donzi Marine, Inc. (see ABBRA Bulletin of December 27, 1976, above), the Department of Labor's Benefit Review Board, by a 2-1 vote, agreed with the Associations that the Donzi employee was not covered by the amendments.

#### Causes for the Marine Industry Position

With the passage of workers' compensation laws early in the twentieth century, workers injured in the course of their employment substituted scheduled, guaranteed, no-fault benefits for their probative legal damages in civil actions against negligent employers. Such scheduled benefits were mandated by state workers' compensation acts.

In 1972, a Federal Longshoremen's and Harbor Workers' Compensation Act was passed which superseded the land-based state WC laws for occupational injuries connected with employment (maritime activities) impinging on navigable waterways. The 1972 Act was aimed primarily at harbor workers and stevedores and was not significantly related to recreational boating or marina operations, which remained substantially under state WC laws.

However, effective November 26, 1972, amendments to the Federal Longshoremen's and Harbor Workers' Compensation Act (P.L. 92-576, 1972 LHWCA) raised a question as to federal versus state jurisdiction and occupational injury benefits schedules relative to small boatyard and marina operations. To obtain clarification of this question, marina interests directed inquiries to the Department of Labor on May 15, 1973, and again on February 19, 1974, inquiries which the Department ignored until April 21, 1975 (for over two years).

At that time, it communicated to marina interests that "recreational boat builders and marinas are 'employers' within the meaning of Sec. 2(4) of the Act and that their employees are entitled to receive benefits provided by the Act for injuries or deaths sustained while they are working for their employers in areas adjoining the navigable waters."

On June 6, 1975, the U.S. Department of Labor issued a ruling ("Notice 21") declaring that the 1972 LHWCA applied to the recreational boating industry as well as to the large-scale operations of ocean/marine industries.

## The Adverse Effects of Notice 21

The adverse effects of Notice No. 21 on small boat yards and marinas (recreational boating services) can be summarized as follows:

1. Actual and prospective worker injury claims under federal benefit schedules have greatly increased the cost of WC premiums.
2. Redundant benefits have increased malingering, disrupted service operations, and fraudulently added to marina costs. Unlike state authorities, federal authorities are too remote to exercise any effective control over abuses.
3. Despite clean accident records, many marinas have suffered (a) cancellations of coverage, (b) great difficulty in obtaining coverage, or (c) assignment to extra-premium high-risk pools.
4. For those who sell on a fixed-price basis, the increase in WC premiums produces an equivalent decrease in profits.
5. Unless relief is obtained, some marinas may have to curtail or discontinue important services to recreational boating insurance.

## Possible Causes for This Situation

The marina community leadership has, from the beginning of the WC crisis, advocated an exemption under the 1972 LHWCA for small boat yards and marinas. It has mobilized such strength as it possesses to pursue this objective by administrative ruling from the Department of Labor, by judicial interpretation in the courts, and by corrective legislative action. When success through these avenues of relief was not obtained, it strongly advocated mitigation via some form of government reinsurance (subsidization), such as that granted by the federal government for flood insurance.

## CAUSES OF THE CRISIS

On November 27, 1972, the LHWCA was signed into law. The manual rate per \$100 of payroll (Boat Building or Repair) increased from \$3.50 to \$6.50 for Rhode Island boat yards and marinas (Low rate is North Carolina (\$1.89), high rate is Washington, D. C. (\$14.07), and median is Nebraska (\$6.44).).

A shrinkage in the voluntary market for WC coverage also occurred. The double impact of increased costs and decreased markets led to many inquiries and objections which were answered on June 6, 1975, in Notice No. 21 and ended any immediate hope for relief through administrative exemptions for recreational boating interests.

But there may be more fundamental causes for the crisis, of which the 1972 Act was simply a manifestation or catalyst. For example, dissatisfaction with the adequacy of state WC benefits in an inflationary era which has reached double digits on one occasion (and which may do so again) led to various reform proposals at executive and legislative levels.

As states understandably fear unilateral reform because of adverse effects on intrastate industrial development, national standards or outright federal intervention appeared to be the route to needed reform. To extend federal jurisdiction landward from navigable waterways was an obvious means of modifying state benefit schedules along a wide interstate littoral.

This, presumably, was an important underlying intent of the 1972 Act, and naturally one which would find political support from labor groups.

Marinas became part of the evolutionary beachhead for WC reform via federal intervention.

An equally important cause was the general underwriting capacity and profitability position of insurers at the time of the Act's passage, and subsequently confronted by rapidly rising losses and diminished investment return, insurers contracted their rates of expansion in various lines and became selective toward the market as a whole. Pending satisfactory adjustments to a new area of underwriting problems, retrenchment became the order of the day, and WC coverage for marinas joined automobile lines, product liability, and malpractice, in that general retreat from underwriting problem areas.

## EFFECTS

### Increased Cost of WC Insurance General Observations

The purpose and effect of the 1972 Longshoremen's and Harbor Workers' Compensation Act (LHWCA) was to institute a uniform schedule of benefits for all covered maritime workers, in lieu of divergent state benefit schedules.

The workers' compensation laws of many states currently conform closely to the provisions of the 1972 Act.

For the most part, benefits to injured marina and maritime boat yard workers in these states would not be significantly different under their workers' compensation statutes than those now required under the 1972 LHWCA.

In other states, however, there would be significant difference between provisions from state WC coverage and those from the 1972 Act.

In effect, the 1972 LHWCA applied national benefit standards for occupational injuries in maritime employments. Further, by increasing the maximum weekly disability benefit to 200 percent of the national average weekly wage (NAWW) from 100 percent of the comparable state average weekly wage (some states have lower maximum benefits), it enabled most injured workers with above-average hourly wages, as well as those with average wages, to receive benefits of up to 66 2/3 percent of their AWW.

Progressive states have increasingly shaped their own land-based compensation statutes after the national standards exemplified in the 1972 Act, and so the logic of seeking escape from federal jurisdiction back into state jurisdiction is not immediately apparent. Premium costs for workers' compensation (WC) coverage, whether state or federal, are actuarially related to benefit schedules; where state and federal schedules are similar, there would seem to be little saved by substituting one for the other.

Actually, the real occurrence of very large individual WC losses should surprise no one. To illustrate, assume that a skilled worker in maritime employment who currently earns \$6 an hour, or about \$12,500 a year, is permanently and totally disabled by occupational injury. Assume further that he was 25 years old at the time of disability and that his life expectancy is 40 more years. Assume finally,

that, had he not been disabled, his average annual earnings would have increased at an average inflationary rate of six percent a year. His total gross earnings to long-term disability would be nearly \$2 million. At 66 2/3 percent of AWW, the loss would still be very large; \$1,290,000. However, while this may be the loss which is dramatized in press releases, the actual loss to the WC insurer, the reserve on the claim, is discounted (reduced to a present value) at the insurer's estimated long-term interest earnings on the reserve. This would produce an actual loss of much less than \$1 million.

The following table shows how the total losses and claims actually paid under Longshoremen's and Harbor Workers' Compensation legislation prior to the 1972 Act would have been paid under the Act.

<u>Injury Type</u>	<u>Prior to Act</u>	<u>Subsequent to Act</u>	<u>Increase Factor</u>
Death	\$ 1,563,125	\$ 9,447,528	6.044
Perm. Total	1,354,059	7,716,782	5.699
But, these losses comprise only 32%** of total losses incurred.			
Total	\$23,053,584	\$53,137,693	2.3 overall increase in losses

\*\*Down to 20% as of October, 1976

#### Specific Observations

Marina operators look more to dollar premium charges than to rates per \$100 of payrolls and in their comparisons of premiums before and after the 1972 LHWCA they may have overlooked interim inflationary effects of labor costs and payrolls, which themselves may have accounted for a significant part of the perceived premium increases.

A Rhode Island marina with a \$100,000 payroll would pay a premium of \$3,680 under rate code 6834 (state) and \$5,660 under rate code 6824 (federal).

Total insurance costs (all coverages) would increase from 1.7 to 2.09 percent of revenues. That is, if marinas billed clients on a full-cost basis for all services rendered (including insurance costs), a pass-through of increased WC costs would be only 39 cents per \$100 of billings. Such a minor increase in billings for costs would scarcely seem to constitute a crisis in cost accounting for marina charges.

Thus, in Rhode Island, after nearly five years of experience under the 1972 Act, predictions of its ruinous impact on WC costs do not seem to have been borne out by the facts.

In Rhode Island, the federal rate is 54 percent higher than the state rate (\$5.66 vs. \$3.68), whereas in Connecticut the differential is 176 percent (\$4.91 vs. \$1.78). It would appear, therefore, that the 1972 Act affected Connecticut marinas much more seriously than it did the Rhode Island marinas. However, in Connecticut, the federal rate, and hence the actual burden of WC premium costs, is 13 percent lower than it is in Rhode Island (\$4.91 vs. \$5.66).

Similarly, in Oregon, the rate differential is only 23 percent, much lower than that in Rhode Island, but the rate level is very much higher than it is in Rhode Island (\$9.89 vs. \$5.66). In addition, there are "open" states, particularly California, where individual carriers may charge any rate which they feel to be commensurate with the exposures underwritten.

#### Lack of Coverage Availability

##### Survey of Marina Insurers

Companies Surveyed: Aetna Life-Casualty, Alaska Pacific, American Employers, American Universal, Commercial Union, Fireman's Fund, Hartford, Home, Insurance Company of North America, Safeco, Travelers.

Willingness to Write Marina WC Coverage Under LHWCA: All but one of the respondents indicated a general willingness to write such coverage.

Specific Responses from Individual Insurers: 1) Our company is actively soliciting this business in the State of Washington. We file our own rates and believe we can make a profit in this line. We divide our payroll classifications between boats under 65 feet in length and boats over 65 feet (up to 150 feet). A further distinction is made as to boat construction -- wood, fiberglass, steel, aluminum.

2) We believe that one of the major reasons why some insurers are "running scared" of LHWCA coverage is that loss experience includes such firms as Electric Boat and Litton Industries, which have a large number of employees and large payrolls. Both frequency and severity of losses is a problem with such firms and underwriters have "used this brush to paint the LHWCA market." In contrast by focusing attention on the smaller marinas, having fewer employees and smaller payrolls, we have found our loss experience to be satisfactory. Furthermore, since the state fund does not write the coverage, we feel that we now enjoy a market advantage over the other insurers. One insurer writes such coverage in California, which is a state fund that also writes it, but that company is not a large writer of the coverage. California court decisions involving marinas have forced it to write such coverage as primarily an incidental exposure. It charges the state rate plus 190 percent loading for LHWCA coverage.

3) Our company, while willing to write the coverage, will resist many claims where in our opinion the state workers' compensation act rather than the LHWCA applies. We do not expect to win many of these contests, but our position is justified in attempting to get the courts to clarify the scope of coverage provided by the federal act. One problem we face concerns death benefits to widows of individuals who have been collecting either permanent-partial or permanent-total disability benefits under the LHWCA and who die of an unrelated cause. As an example, for an employee who suffered a back injury in 1954 and who dies in 1974 in an automobile accident, coverage continues to his employee's widow for her lifetime. Prior to the 1972 amendments, all income benefits would cease upon the injured employee's death. We take the position that this continuation of benefits is an infringement of contract and the unlawful taking of property. (The respondent cited a recent case, Rouse vs. Norfolk, Baltimore & Carolina Lines, Inc., in which the Supreme Court denied the writ based upon these two points.)



Finally, although we do write coverage on marinas, and use ISO rates, our company does not write that many risks voluntarily; many are assigned to use from the assigned risk pool. We believe that there is no reasonable interpretation of a "longshoreman" or "harbor worker" at this time.

4) Our company writes this coverage but in the state of Massachusetts it is all assigned risk business. Generally, we have not faced any major problems with the coverage. Normal rates are charged and surcharges are reasonable. However, we are tough on underwriting. We feel that rates are inadequate and that many of our insureds are confused -- they do not understand the loadings in the federal classification codes. Insureds take the position that their rates should not be loaded. We believe that loadings are necessary because of the claims experience.

5) (One respondent quipped: "Although we write it, we are not looking for it, primarily because the way the Act is worked anyone within a sea-breeze is covered.")

Mr. Donald De Carlo, Vice President of the National Council on Compensation Insurance, wrote: "This is to confirm that insurance coverage is available in all states for employers subject to the U.S. Longshoremen's and Harbor Workers' Compensation Act. As I explained, the coverage is available either in the voluntary insurance market, a state fund, or in an insurance plan and/or facility. If one of your members has difficulty in obtaining coverage, please feel free to contact me."

#### Possible Cures

1) Consideration should be given to subclassification of code 6824 by length and/or tonnage of vessel, and possibly by kind of construction. This would result in a stratification of rates and underwriting risks which might reduce premium costs for marinas.

2) Alternatively, individual small marinas in a given region might combine or pool their risks under an association title for the purpose of presenting one overall large risk for competitive bidding in the direct voluntary market.

3) In open states where competition may be limited and individual marina quotations extremely high, stricter direct overview of rates by regulatory authorities should be sought.

4) Creation of a competitive state fund (where none now exists) to underwrite marina WC on either a direct or reinsurance basis.

5) Regional trade associations should research the market comprehensively in behalf of their member yards.

6) Insurers which continue to write large volumes of marina WC business should be contacted to determine the underwriting profiles of acceptable risks, so that those the market currently rejects may study how to gain acceptability.

The 1972 Act gives marina interests an increased incentive to more sophisticated financial management, including capital budgeting techniques, approaches to financial markets, and mergers and consolidations.

More importantly, research efforts should be directed to the reasons for wide average rate differentials between different jurisdictions.

The market should be researched for these insurers and profiles of acceptable risks obtained and used as models for other risks. In brief, if the problem lies in the insurance market, the marina industry should know much more about that market than it currently does.

Outside the traditional insurance market, the marina industry should research all cooperative, association, or pooling arrangements for obtaining needed coverage.

## BOATING: MARINE PROMISE

by Susan H. Anderson,  
MAS University of Southern California

Three years ago, Dr. Robert White, then Administrator of NOAA, requested that the University of Southern California Sea Grant Program run a national conference on marine recreation. That conference was held in October of 1975.

The purpose of the conference was to establish a national focal point for marine recreation. It was to identify NOAA as the administrative body that was prepared to commit -- to commit funds, to commit time, to commit program -- to marine recreation. It was to identify critical recreation issues that should be addressed in planning and management around the nation. In that conference we set out to develop recommendations for national policy and to develop guidelines for action that could be taken at all levels to enhance recreational opportunities.

There were a number of basic concepts developed at the conference. First, we showed ourselves to be environmentalists, for we talked in many different ways about maintaining the quality and the integrity of the natural ocean environment for the recreational enjoyment of all. We recognized, as a body, the finite quality of the resource of the oceans. We recognized that technology does not have infinite power to resolve all problems, that some problems cannot be answered by technology. We determined the need for strong marine education programs to increase public understanding of marine recreational issues and to develop a constituency around the nation who would go into the coastal zone management process with an awareness of the importance of marine recreation in total uses of our coastal environment.

Much discussion was held concerning the need for increased public access to the water's edge if we were to have quality marine recreation experience. At the close of the conference, we were able to develop recommendations for federal action, for state and local action, for industrial response, and to develop recommended needs for research and education. Where does the responsibility which we designated at that time lie to carry out these objectives? -- And what progress has been made?

At the National Conference for Marine Recreation we looked to NOAA for national leadership and interagency coordination to bring about a new thrust in understanding of marine recreation. Since the time of the conference, since the proceedings have been received in Washington and around the nation, nothing of major significance has occurred -- nothing!

There has been no strengthening of the coordinator's role in NOAA. The person who now holds that title wears five hats and under the new organization there is no mention of marine recreation as a separate or even as a coordinate responsibility for any person within any function of the new NOAA organization.

There has been no earmarked funding for recreation research. However, the Sports Fishing Institute and the National Coalition for Marine Conservation have been successful in getting money each year for the past two years for an annual symposium on marine recreational fishing. There has been no planned review and coordination of recreation activities even throughout NOAA's main-line components. No central clearing house has been set up for keeping abreast of ongoing marine recreation research and programs in all federal agencies. There is, however, a computer search capability that enables us

to determine what Sea Grant research has been done around the nation relating to marine recreation. However, this is only a small component of the marine recreational research that may be going on throughout the country.

There has been no representative advisory committee formed to provide input and update on progress and needs across the nation in improving the provision and use of facilities and access, to provide coordination of research and education efforts. Neither has there been an effort made to hold regional user-oriented workshops for different recreation interest areas -- to structure a step-by-step approach to address conflicts, problems and solutions, to identify issues to pursue as a coherent constituency.

We have no inventory of follow-up that may have been initiated by attendees in their local areas, but we have heard word that a push from outside, either from above, i.e., the federal government, or from local outcry, is needed in order that major follow-up activity at the local level might be taken.

In retrospect, we may have put the cart before the horse. Can a coordinator in NOAA, or any other agency, effectively develop programs for action without broad-based public support, without a vocal constituency? Probably not.

The Coastal Zone Management Program cannot even get funds for the beach access program although the concept was passed as was mentioned earlier in this conference. Why? Partly because beachgoers are not making themselves heard. Recreation interests stand to lose an opportunity to utilize Coastal Energy Impact Program funding if those interests at the local level don't speak up -- not just as individuals sending out a few letters but as a body with an identified spokesperson.

Sea Grant, recognized throughout this conference as being capable of developing tremendous data bases to answer national and regional questions, cannot dictate from the national office what research will be done. We each have some kind of local input, an advisory board perhaps, identifying priorities. These priorities come from the local squeaky wheels.

In addition to the need for public concern and public expression of interest in our areas, the academic community has an aura of academic independence -- of academic freedom -- and even if we find a topic that needs to be studied, we cannot always match a professor or a researcher on campus with that need.

The Bureau of Outdoor Recreation, we were told on Wednesday, does not recommend or decide where funding should be allocated, but rather staff members of the Bureau provide a study to Congress and Congress must make the decision as to what programs should be funded. That requires a constituency that will stand behind the representatives of Congress, that will stand behind their vote to make a B.O.R. program go or stop. Although sometimes a show of local or industry match can and is interpreted as a constituency voice, it has the danger that it may also seem self-serving if the broad base of the constituency cannot be shown.

We are a crisis-oriented people and unfortunately crises usually hit the industry first before they hit the public user. I think in the area of boating the squeeze of facilities is already prevalent enough that even the boaters are ready to admit that there is a pending crisis. The crisis is already upon us in some states and some areas. Yet where is the National Boating Federation? I had forgotten that they existed until it was mentioned early in this program. Where have they been? If this is the organization of boaters, can they rally support for recreational issues in coastal zone management? Will they form local, regional, and state-wide councils to speak out?

Despite what Dallas Miner of the Office of Coastal Zone Management said about no state plan being hostile to boating, California's plan does not offer much hope to future water boating facilities. Not until the eleventh hour before the legislation was passed in California did boaters come before the Legislature to speak out trying to get their needs met in the California Coastal Zone. Now in southern California existing commercial harbor areas are our only hope for expanded or new marinas and the Port Commission has shown considerable hostility to recreational boaters. At this time we do have a boating council fighting for their rights in the harbor, but the coastal zone laws have already been made and are already in the process of being implemented in this state. The boating council action may already be too late.

Can the case study of California open the eyes of boaters elsewhere and get them to organize before it is too late? Maybe those of you in the industry can begin a campaign to build a constituency of boating interests. Remember, however, the constituency must go beyond the industry representatives. Remember, the only recreational interest that seems to have received special attention in Washington since the National Conference on Marine Recreation is the sport fishing interest. They have their national spokesman and they are being heard. They have received the benefits of annual symposia to continue to update their positions and initiate new interest among researchers to help with data needs and socio-economic analysis, and they have succeeded in part through National Marine Fisheries Service to get monies directed toward needed research.

The conference we are closing today has many of the components of those annual fishing symposia, but we do not have the boaters here nor do we have them anxiously waiting at home for the results of this meeting so that they can carry the ball to Washington to lobby for increased commitment to research or to their own state legislators to negotiate for increased boating opportunities. Think about it.

If you as industry representatives were to design a program of meeting research needs and were able to get even one representative to submit it as a bill to the Legislature, could you then rally the support from the boaters to get that bill out of committee and passed on the floor? That may be what is necessary to get money allocated for marine recreation research programs, to get federal coordination of efforts and dissemination of guidelines to state and local governments, which carry some weight.

Our request for real action and coordination from a federal agency may fall on deaf ears until the boaters and each other recreational interest group shows itself as an organized, vocal constituency ready to take part in allocative decisions.

## CONCLUSION

by Co-Sponsors

Wrapping up, let us tell you we are going to try our best to have the proceedings of the conference published and distributed to everyone here after the first of the year. If anyone here did not preregister and is not on the conference roster, please let us know so that we see you get a copy of the proceedings.

BIA and Sea Grant have conferred, and concluded that it would be worthwhile to co-sponsor another Facilities Conference; this one was just the beginning. Where and when are to be determined.

You can help make that decision. We will probably do a survey to find out what topics you would like to see covered at a future conference.

\* \* \* \* \*

SPEAKERS

NATIONAL BOATING FACILITIES CONFERENCE

October 12-14, 1977  
Newport, Rhode Island

Susan H. Anderson  
UNIVERSITY OF SOUTHERN CALIFORNIA  
Marine Advisory Services  
Sea Grant Program  
100 West Water Street  
Wilmington, California 90744

Edward Bliven  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
83 Park Street  
Providence, Rhode Island 02903

Dr. Francis Cameron  
Marine Affairs Department  
UNIVERSITY OF RHODE ISLAND  
Kingston, Rhode Island 02881

Clinton J. Chamberlain, President  
C. A. CHANEY, INC.  
Box 48 A, Route #2  
Hayes, Virginia 20372

Michael E. Collins, Vice President  
NEWPORT SHIPYARD, INC.  
379 Thames Street  
Newport, Rhode Island 02840

Charles Dickerson  
APPONAUG HARBOR MARINA  
Arnold's Neck Road  
Apponaug, Rhode Island 02886

Dr. Robert B. Ditton  
Associate Professor  
Recreation and Parks Department  
TEXAS A & M UNIVERSITY  
College Station, Texas 77843

Peter Dunning, Manager  
GOAT ISLAND MARINA  
Newport, Rhode Island 02840

James Falk  
Department of Parks & Recreation  
TEXAS A & M UNIVERSITY  
College Station, Texas 77843

Dr. John Fitzgerald  
Department of Finance & Insurance  
College of Business & Administration  
UNIVERSITY OF RHODE ISLAND  
Kingston, Rhode Island 02881

Dieter Hammerschlag  
Department of Community Planning  
UNIVERSITY OF RHODE ISLAND  
Kingston, Rhode Island 02881

George Howarth  
Commandant  
FORT ADAMS STATE PARK  
Newport, Rhode Island 02840

Kenneth Hutchinson, Director  
New England Marine Advisory Service  
NEW ENGLAND MARINE CENTER  
Durham, New Hampshire 03824

John A. Lyons, Chairman  
RHODE ISLAND COASTAL RESOURCES  
MANAGEMENT COUNCIL  
83 Park Street  
Providence, Rhode Island 02903

Cicly Kihn  
Outdoor Recreation Planner  
BUREAU OF OUTDOOR RECREATION  
Northeast Regional Office  
Philadelphia, Pennsylvania 19106

Edward L. Mayo  
K.D.A., INC.  
Box 50  
Kennebunkport, Maine 04046

Roy Mann, President  
ROY MANN ASSOCIATES  
180 Franklin Street  
Cambridge, Massachusetts 02139

Dallas Miner  
Special Assistant to the Administrator  
OFFICE OF COASTAL ZONE MANAGEMENT, NOAA  
3300 Whitehaven Street, N.W.  
Washington, D. C. 20235

William Muesel, Harbormaster  
HARBORMASTER OFFICE  
Newport, Rhode Island 02840

Jeff Napier  
BOATING INDUSTRY ASSOCIATIONS  
401 North Michigan Avenue  
Chicago, Illinois 60611

Richard D. Palmer  
REMLAP ENTERPRISE  
Foot of Broad Street  
Stratford, Connecticut 06497

Leonard Panaggio, Director  
Tourist-Travel Division  
RHODE ISLAND DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
One Weybosset Hill  
Providence, Rhode Island 02903

Alan Remington  
50 South Meadows Lane  
Barrington, Rhode Island 02806

Dr. Neils Rorholm, Director  
Sea Grant Program  
UNIVERSITY OF RHODE ISLAND  
Kingston, Rhode Island 02881

Neil W. Ross  
Marine Recreation Specialist  
Marine Advisory Service  
UNIVERSITY OF RHODE ISLAND  
Narragansett, Rhode Island 02882

George Rounds, Executive Secretary  
NATIONAL ASSOCIATION OF ENGINE &  
BOAT MANUFACTURERS, INC.  
Post Office Box 5555  
Grand Central Station  
New York, New York 10017

Robert J. Shephard, Program Manager  
National Marine Advisory Service  
OFFICE OF SEA GRANT, NOAA  
3300 Whitehaven Street, N.W.  
Washington, D. C. 20235

Ronald Stone  
BOATING INDUSTRY ASSOCIATIONS  
401 North Michigan Avenue  
Chicago, Illinois 60611

Brig. General Drake Wilson  
Deputy Director  
Civil Works  
Office of Chief Engineers  
U.S. ARMY CORPS OF ENGINEERS  
Washington, D. C. 20314

Gordon Woodland, General Manager  
PEARSON YACHTS, INC.  
West Shore Road  
Portsmouth, Rhode Island 02871



PARTICIPANTS OTHER THAN SPEAKERS

NATIONAL BOATING FACILITIES CONFERENCE

October 12-14, 1977  
Newport, Rhode Island

Dr. Leon Abbas  
NORTH CAROLINA SEA GRANT  
ADVISORY SERVICE  
North Carolina State University  
Post Office Box 5125  
Raleigh, North Carolina 27607

Thomas H. Agro, Supervisor  
TOWN OF ISLIP  
Harbor and Beach Maintenance Bureau  
Department of Public Works  
401 Main Street  
Islip, New York 11751

Honorable Douglas A. Allen  
JEFFERSON PARISH  
Room 741  
New Courthouse Building  
Gretna, Louisiana 70053

Anthony Antiello  
RHODE ISLAND DIVISION OF  
COASTAL RESOURCES  
83 Park Street  
Providence, Rhode Island 02903

David Bannerman  
Past Assistant Marine Supervisor  
SOUTHCLIFF BHS.  
Post Office Box 373  
Charleston, Rhode Island 02813

Steve Barret  
BARRET & SONS, INC.  
Route #1, Box 415  
Portland, Oregon 97231

Jim Beattie  
RHODE ISLAND DIVISION OF  
COASTAL RESOURCES  
83 Park Street  
Providence, Rhode Island 02903

Don Bregoff  
MOOR-KING  
2240 N.E. Court  
Ft. Lauderdale, Florida 33308

Tom Brillat  
24 Brooks Street  
Cranston, Rhode Island 02920

Stephen D. Brown  
Extension Specialist  
NEW YORK STATE SEA GRANT  
ADVISORY SERVICE  
607 Raymond Hall  
State University of New York  
Potsdam, New York 13676

Tommie Brown, Research Associate  
NEW YORK STATE SEA GRANT  
ADVISORY SERVICE  
Cornell University  
Ithaca, New York 14853

Dale A. Crane  
OFFICE, CHIEF OF ENGINEERS HQDA  
Forrestal Building  
10th & Independence Avenue, S.W.  
Washington, D. C. 20314

Richard DeAngelis  
ENVIRONMENTAL DATA SERVICE  
Page Building 1  
Room 400  
Washington, D. C. 20235

Lin Demers  
RHODE ISLAND MARINE TRADE ASSOCIATION  
10 Messenger Drive  
Warwick, Rhode Island 02886

Wayne Ducote, Commissioner  
ORLEANS LEVEE BOARD  
1020 Thalia Street  
New Orleans, Louisiana 70130

Christi Duerr  
Marine Affairs Writer  
RHODE ISLAND MARINE ADVISORY SERVICE  
University of Rhode Island  
Narragansett, Rhode Island 02882

Charlene Quinn Dunn  
Coastal Information  
RHODE ISLAND MARINE ADVISORY SERVICE  
University of Rhode Island  
Narragansett, Rhode Island 02882

L. M. Dunn  
DUNN CONSTRUCTION ENGINEERING, INC.  
Box 884  
Port Huron, Michigan 48060

Robert A. Eaton  
CONCRETE FLOTATION SYSTEMS, INC.  
65 Langspap Road  
Honeoye, New York 14472

Kenneth Filarski  
RHODE ISLAND DIVISION OF  
COASTAL RESOURCES  
83 Park Street  
Providence, Rhode Island 02903

George Geer  
CONNECTICUT SEA GRANT ADVISORY SERVICE  
ADVISORY SERVICE  
University of Connecticut  
322 North Main Street  
Wallingsford, Connecticut 06492

Robert J. Golden, Jr.  
Marine Extension Specialist  
NEW JERSEY SEA GRANT  
ADVISORY SERVICE  
Rutgers University  
Center for Coastal and  
Environmental Studies  
New Brunswick, New Jersey 08903

Ralph Goodno  
Marine Extension Specialist  
EXTENSION SEA GRANT ADVISORY PROGRAM  
Essex Agricultural & Technical Institute  
Hathorne, Massachusetts 01937

Howard W. Gray  
MISSOURI DEPARTMENT OF CONSERVATION  
Post Office Box 180  
Jefferson City, Missouri 65101

Fred G. Hunt  
Group Vice President  
UNITED FLOTATION SYSTEMS OF  
UNITED MCGILL CORPORATION  
Post Office Box 820  
Columbus, Ohio 43216

Stuart Ingersoll  
ESSEX BOAT WORKS  
Ferry Street  
Essex, Connecticut 06426

Richard Jarman, Intern  
NOAA - OFFICE OF SEA GRANT  
3300 Whitehaven Street, N.W.  
Washington, D. C. 20235

Michael Jovishoff  
Extension Associate  
NEW YORK STATE SEA GRANT  
ADVISORY SERVICE  
381 Park Avenue, South  
Room 621  
New York, New York 10016

Paul Jensen,  
Marine Advisory Specialist  
DELAWARE SEA GRANT ADVISORY SERVICE  
313 Robinson Hall  
Newark, Delaware 19711

Warren Johns  
RAYTHEON COMPANY  
Portsmouth, Rhode Island 02871

Tom Kelly  
MICHIGAN SEA GRANT  
ADVISORY PROGRAM  
Park & Recreation Resources  
Department  
Michigan State University  
Traverse City, Michigan

Jean L. Kinnear  
Sea Grant Extension Intern  
NEW YORK SEA GRANT  
ADVISORY SERVICE  
412 East Main Street  
Fredonia, New York 14063

Bob Knouff, Manager  
UNITED FLOTATIONS SYSTEMS  
OF UNITED MCGILL CORPORATION  
Post Office Box 820  
Columbus, Ohio 43216

Bill Koelbel  
MARINE DOCKS  
Division of Bero Corporation  
Box 70  
West River Road  
Waterloo, New York 13165

Keith G. Lakey  
NEW ENGLAND RIVER BASINS COMMISSION  
55 Court Street  
Boston, Massachusetts 02108

Ray Lawrence  
Waterways Division  
MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES  
Post Office Box 30028  
Lansing, Michigan 48909

Jon A. Lucy  
Marine Recreation Specialist  
VIRGINIA INSTITUTE OF MARINE SCIENCE  
Gloucester Point, Virginia 23062

Robert F. Lyons  
JEFFERSON PARISH  
Room 741  
New Courthouse Building  
Gretna, Louisiana 70053

Patrick McFall  
Public Access Coordinator  
MINNESOTA DEPARTMENT OF  
NATURAL RESOURCES  
304 Centennial Building  
St. Paul, Minnesota 55155

Andrew Manus, Marine Advisor  
CALIFORNIA SEA GRANT ADVISORY SERVICE  
University of California  
Post Office Box 34066  
San Francisco, California 94134

Albert J. Marmo, Chief  
Policy Planning & Information  
Analysis Staff  
Office of Boating Safety  
U.S. COAST GUARD (G-BP-TP42)  
400 Seventh Street, S.W.  
Washington, D. C. 20590

Gary W. Matthews  
JACKSON COUNTY PLANNING COMMISSION  
600 Convent Avenue  
Pascagoula, Mississippi 39567

George F. R. Miller  
SACRED HEART UNIVERSITY  
5229 Park Avenue  
Bridgeport, Connecticut 06606

Dr. William W. Miner  
RHODE ISLAND COASTAL RESOURCES  
MANAGEMENT COUNCIL  
East Shore Road  
Jamestown, Rhode Island 02835

Francis Montville  
Cooperative Extension Service  
UNIVERSITY OF MAINE  
305 Winslow Hall  
Orono, Maine 04473

Jim Murray  
Area Extension Agent - Marine Recreation  
MINNESOTA MARINE ADVISORY SERVICE  
325 Administration Building  
Duluth, Minnesota 55812

Bill Parent  
PARENT MARINE, INC.  
60 Harborside Drive  
Providence, Rhode Island 02906

Donald W. Pybas  
TEXAS MARINE ADVISORY PROGRAM  
Department of Recreation and Parks  
Texas A & M University  
College Station, Texas 77843

Dennis Regan, Marine Advisory Agent  
NORTH CAROLINA SEA GRANT  
ADVISORY SERVICE  
North Carolina State University  
Post Office Box 1163  
Manteo, North Carolina 27954

William Mason Shehan  
BAAC Liaison Officer  
MARYLAND DEPARTMENT OF  
NATURAL RESOURCES  
Tawes State Office Building  
580 Taylor Avenue  
Annapolis, Maryland 21401

Douglas E. Ritchey  
MARYLAND MARINE ADVISORY PROGRAM  
University of Maryland  
1224 Symons Hall  
College Park, Maryland 20742

Bill S. Satow, Chief  
Boating Facilities Division  
CALIFORNIA DEPARTMENT OF NAVIGATION  
AND OCEAN DEVELOPMENT  
1416 Ninth Street  
Room 1336  
Sacramento, California 95814

Joseph H. Schachter  
CONCRETE FLOTATION SYSTEMS, INC.  
Box 497  
Ann Street  
Norwalk, Connecticut 06856

Karen A. Schneider  
Assistant Editor  
SOUNDINGS  
Essex, Connecticut 06426

Richard W. Skinner  
MAINE BUREAU OF PARKS &  
RECREATION  
Augusta, Maine 04333

Samuel Snow  
RHODE ISLAND MARINE TRADE ASSOCIATION  
Post Office Box 56  
Kingston, Rhode Island 02281

Dan B. Stack  
Assistant Director  
OREGON STATE MARINE BOARD  
3000 Market Street, N.E. #505  
Salem, Oregon 97310

Michael Voiland  
Extension Specialist  
NEW YORK SEA GRANT MARINE  
ADVISORY PROGRAM  
State University College at Brockport  
Brockport, New York 14420

Thomas C. Welch, Jr., Chief  
Division of Boating  
SOUTH CAROLINA WILDLIFE & MARINE  
RESOURCES DEPARTMENT  
Post Office Box 12559  
Charleston, South Carolina 29412

Robert Weygand  
EAST PROVIDENCE COMMUNITY DEVELOPMENT  
PROGRAM  
Department of Planning and Urban  
Development  
60 Commercial Way  
East Providence, Rhode Island 02914

Ralph R. Williams, Jr.  
DELAWARE SEA GRANT MARINE  
ADVISORY PROGRAM  
University of Delaware  
Post Office Box 286  
Lewes, Delaware 19958

Keith Wilson, Chief  
Waterways Division  
MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES  
Post Office Box 30028  
Lansing, Michigan 48909

C. Allen Wortley, Extension Program  
WISCONSIN SEA GRANT MARINE  
ADVISORY PROGRAM  
University of Wisconsin Extension  
432 North Lake Street  
Madison, Wisconsin 53706