



Via fax and US Postal Service

December 14, 2006

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**COMMENTS ON NOTICE OF INTENT TO SETTLE APPEAL OF
CAFRA PERMIT APPLICATION DENIAL**

Re: CAFRA Permit Application Denial File #1525-97-0002.3 (OAL Docket No. ESA 08429-99S).

Citizens Right to Access Beaches (C.R.A.B. Inc) respectfully submits the following comments regarding the above referenced Notice of Intent to Settle Appeal of CAFRA Permit Application Denial.

Upon reviewing the Notice of Intent to Settle and having physically visited the area in question *C.R.A.B.* supports and approves of the conditions of the settlement and requests that the comments and concern(s) below be recorded appropriately.

Since its inception in 1996, *C.R.A.B.* has been asked on numerous occasions to investigate the placement and use of the locked gate that has prohibited access to the east jetty area along the northern border of the Jenkinsons Beach property. In fact, the placement of the gate has been the second most requested concern voiced by individuals over the years. Our organization has investigated the complaints and concerns on several occasions and we are quite familiar with the area involved in the settlement.

While we recognize that the Jenkinson's Corporation has historically provided public access to its beach area for a fee and has also provided various amenities that enhance the access experience those access fees were justified by **N.J.S.A. 40:61-22.20** extending state statute to a privately owned publicly accessible beach. We have always questioned whether Jenkinsons has the right to charge a fee or to deny access to a **publicly financed jetty**. We submit that access to the jetty for fishing or just looking out at sea should be available to the public at no cost at all times. In fact, Jenkinsons has most likely benefited by additional sand deposited on its beach as a result of **publicly funded improvements** made to the jetty over the years.

The conditions of the settlement as stated will once and for all remove the barrier and allow for increased use of the jetty and to protect public trust rights for all citizens. Placement of a movable fence along the sand south of the jetty as outlined in the settlement appears to be a reasonable compromise. In addition the access ramps, temporary structures and decks referenced should add to public enjoyment. Language defining the public trust access areas will enhance public access and further clarify what rights the public has to those portions of the beach.

We do however have a concern about the language regarding access to Jenkinson's Beach property (not the jetty). Proposed fees include a category for children from ages 5-12 (i.e., "Reasonable fees may be charged for children between 5 and 12 years for use of amenities such as play areas and changing areas and for admission to other attractions and promotions".) This language appears ambiguous as to what is meant by "attractions and promotions". If it is a charge for beach use that charge is in direct conflict with the Proposed Public Access Rule (proposed N.J.A.C. 7:7E-8.11(m)3), N.J.S.A. 40:61-22.20 and the finding of the Raleigh Avenue Beach Association v. Atlantic Beach Club, Inc., et al. 185 N.J. 40 (2005) decision. , all of which require that no fee be charged for children under the age of 12.

Any ADA compliant access to the area either as a condition of this settlement or any other settlements should not be construed as satisfying ADA compliant access to the beaches in the community but rather a step in the right direction toward increasing such access elsewhere within the borough.

As stated above, with the exception of our concerns regarding fees for children ages 5-12, and our commitment to increasing ADA compliant access to all of the beaches in the borough of Point Pleasant Beach, Citizens Right to Access Beaches, (C.R.A.B. Inc) supports the settlement and it is our opinion that greater public access to the jetty and the public trust areas of the beach will provide for increased use of the area for a variety of recreational activities consistent with the Public Trust Doctrine.

Ralph Coscia, President

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