

State Ownership/Water Rights: New Jersey Appellate Court Addresses Access Issue



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The Superior Court of New Jersey (“Court”) addressed in a March 27th opinion the impact of state ownership on a conflict over access to a waterbody. See *Rapisardi v. Estate of Lange*, No. A-37322-16T2, 2018 WL 1473918 (N.J. Super. Ct. App. Div. March 27, 2018).

The dispute involved a landowner (“Rapisardi”) that claimed a boat ramp built by the Defendants (“Langes”) encroached/trespassed on his access to a creek.

The Court found that, although the Rapisardi’s predecessor in title deeded the land in question to Plaintiff, Plaintiff did not own the water rights to the land because the rights of the state superseded his ownership.

Rapisardi claimed that the Langes encroached and trespassed on his property by the use of the land as a boat ramp. Rapisardi’s predecessor in title purported to grant to him the land down to the low water mark of a creek. However, the State of New Jersey owns, in fee simple absolute, all lands in the State up to the mean high water mark. The State did not grant any riparian rights to Rapisardi. Therefore, he only owned upland from the high watermark and did not have the authority to exclude anyone from using the land below the high water mark.

The court affirmed summary judgment in favor of the Defendants.

A copy of the opinion can be found [here](#).