



MD Marine

www.mdmarinecontractors.org

Volume 2, Issue 2

July / August 2010

Dates of Interest:

- M.M.C.A. Board of Directors Meeting: August 27, 2010
- MTAM Member & Legislative Event: September 10, 2010
- M.T.A.M. Annual Conference: September 14, 2010
- M.M.C.A. Info. Meeting on SB 382: September 24, 2010
- MDE Marine Contractor Registration Deadline: December 31, 2010
- Start of the 2011 MD Legislative Session: January 12, 2011

Inside this issue:

- Use Your M.M.C.A. Membership to Your Advantage 2
- M.M.C.A. New Member Spotlight 2
- M.M.C.A. Meeting on SB 382 Scheduled 2
- M.M.C.A. Board Sets Objectives for 2011 2
- Lochner's Legal Corner By: Todd Lochner, Esq. 3
- M.T.A.M. Annual Conference Information 3
- Contact Information & M.M.C.A. Objectives 4

M.M.C.A. Makes History with SB 382



Pictured Front Row From Left: Lt. Governor Anthony Brown, Senator Mike Miller, Governor Martin O'Malley, Speaker Michael Busch; **Back Row From Left:** Delegate Ron George, M.M.C.A. Board Member Scott Thompson, M.M.C.A. Lobbyist Gerry Evans, Courtney Highsmith

On Tuesday, May 4th Governor Martin O'Malley signed Senate Bill 382 into law. SB 382 is the result of two years of hard work by the M.M.C.A. and is a step in the right direction to bring some much needed permit relief to marine contractors as well as improve the overall level of professionalism within the industry. The two major components of the bill include a 90 day turnaround for tidal wetland permits and the implementation of a statewide marine contractors licensure program.

For the first time ever, the Maryland Department of the Environment is bound by law to issue tidal wetland permits within a designated time frame. The M.M.C.A. will closely monitor MDE's progress and hold them accountable to the 90 day time frame. We will also insist that MDE avoid the temptation to exploit any possible loop holes in the new legislation.

The bill also calls for all marine contractors (as defined in the bill) to be registered with MDE by

December 31, 2010. This initial registration will serve as a proxy licensure until a permanent Marine Contractors Licensing Board is established. This Board will be charged with creating and maintaining the first marine contractors licensure program in the State. Although licensure is not the first choice of most in the trade, it will prove to be invaluable in closing the door on pirate activity and allowing legitimate contractors to once again be competitive. The M.M.C.A. will play an active role in the creation of the licensure program and the interests of the industry will be guarded.

SB 382 can be viewed in its entirety at: <http://mlis.state.md.us/2010rs/bills/sb/sb0382e.pdf>.

More details on this new legislation will be forthcoming. The M.M.C.A. is committed to helping its members with these prospective changes. Thank you to everyone who worked tirelessly to make this bill a reality. The language in the bill is not perfect, but it is an important step forward in protecting and promoting marine construction in Maryland.

M.M.C.A.



T-Shirts Available

Place Your Order By E-mailing:
info@mdmarinecontractors.org

This Newsletter Brought To You By:

BOAT LIFTS UNLIMITED, INC.
1-800-268-5911

1901 Betson Court, Odenton, Maryland 21113

MAGNUM
BOAT LIFTS

Member Decals



Join Today
To Get Yours!



Contractors Boat Builders
Work Boats Yacht Builders
Barges Stevedores
Marinas Warehousemen

Comprehensive Marine Insurance

Eric Holden, Account Executive
Direct: 443-798-7321
eholden@psafinancial.com

Maryland Marine Contractors Association

Sponsorship Opportunities

Newsletters

Website

Events

Merchandise

Call

410-822-0510

For Details

Use Your M.M.C.A. Membership to Your Advantage

Being an M.M.C.A. member is more than just paying dues. By making the financial commitment to be a member you are sending a message to your customers, your competitors, and to the governing agencies that you take your work and your business seriously and you are in the trade for the long haul. Aligning your company with others that share the same values gives you and your business a competitive edge.

The M.M.C.A. is all about protecting and promoting the marine construction industry. Successful businesses are not built on unpermitted poor quality work. In addition, substandard operations give

all contractors a bad name. The short term gains of being a pirate do not lead to long term credibility that will ultimately sustain individual companies and benefit the industry as a whole.

As a member, you are encouraged to show potential customers your M.M.C.A. membership ID. This endorsement shows that you take pride in your business and subscribe to the highest standards supported by a professional trade association.

Also, don't forget to display signs of your M.M.C.A. affiliation. Hang your membership certificate in your office, place a member-

ship decal on your truck window, and link to M.M.C.A.'s website from your company's site (M.M.C.A. logos are available). The exposure is good for you and the Association.

Finally, in addition to the prestige of being an M.M.C.A. member, be sure to take advantage of the networking, volunteer, and training opportunities offered throughout the year.

We are constantly searching for new member benefits and as we grow more opportunities will become available. Meanwhile, do not hesitate to take advantage of what is already at your disposal.

M.M.C.A. New Membership Spotlight

In May of this year Avon-Dixon, LLC became a member of the Maryland Marine Contractors Association. Avon-Dixon is an independent full service insurance agency offering a full spectrum of insurance and advisory services including marine policies tailored for marine contractors.

Avon-Dixon has offices in Easton, Grasonville, Centreville,

and Annapolis and be found on the web at www.avondixon.com. Seth Beatty is Avon-Dixon's M.M.C.A. contact and he can be reached by phone at 410-822-0506 or by e-mail at seth.beatty@avondixon.com.

The M.M.C.A. Board, on behalf of all members, would like to thank Seth and Avon-Dixon for their support and we welcome

them to the Association.



The Team You Can Trust

M.M.C.A. Meeting on SB 382 Scheduled

On Friday, September 24, 2010 the M.M.C.A. will hold an informational meeting on the de-

tails of SB 382. The meeting will be held at the Kent Island Holiday Inn Express and will begin

promptly at 1:00 P.M. Light refreshments will be served. More information will be forthcoming.

M.M.C.A. Board Sets Objectives for 2011

There is no question that, with the passage of SB 382, 2010 was a successful year for the Maryland Marine Contractors Association. The question now is, what's next?

The M.M.C.A. Board is currently planning and prioritizing objectives and action items for 2011. The list is growing weekly, but so far includes: building membership, participating in and monitoring the implementation of the Maryland Marine Contractor Licensing Board, monitoring MDE's

processing of tidal wetland permits, improving member communication, increasing public awareness of the challenges facing the marine construction trade, and building partnerships that help advance the M.M.C.A.'s mission of protecting and promoting the marine construction industry.

"An ambitious agenda will help keep us focused and assure forward progress" said Brandon Weems, M.M.C.A.'s president. "We also want to increase member participation within the Asso-

ciation to help close communication gaps, reach more stakeholders, and simply get more accomplished."

Help is needed with a wide range of tasks including: event planning, member recruitment, fundraising, marketing, and outreach. Anyone interested in volunteering time, skills, or other resources is encouraged to contact M.M.C.A. staff by e-mail: info@mdmarinecontractors.org. Even an hour a week will make a big difference.

Lochner's Legal Corner

Contributed By: **Todd D. Lochner, Esq.**

Frequently the law does not bear resemblance to "common sense", nor what would appear to be the "correct answer." Often litigants win when they should lose and lose when they should win due to quirks in the law which prevents common sense from ruling the day. This is one such story.

A marine contractor was hired by a landowner through his General Contractor to replace a bulkhead. The Marine Contractor introduced the General Contractor to an Engineering Firm. The Firm was hired by the Owner and obtained the permits for the project. The project required grading and soil to back fill the bulkhead where the "dead men" anchors would be buried. In this particular instance, instead of piling sections, more modern anchoring systems were used which led to much speculation about the cause of the bulkhead failure. Ultimately, nearly everyone agreed that the failure was a direct result of the soil used to backfill the area. The operative question became "who chose the soil which was used as 'back fill?'"

The General Contractor, not the Marine Contractor, was contractually required to supply the soil for the project. The General Contractor happened to have approximately 20 dump truck loads of soil at his disposal, but the Marine Contractor was uneasy with this obvious cost saving measure. The Marine Contractor insisted that the Engineering Firm certify the soil as a suitable type for the project. The Marine Contractor arranged a meeting with the General Contractor and two representatives of the Engineering Firm. All four met and the engineers were shown the very piles of soil which the general contractor proposed to use. The

engineers put their hands in the soil, rolled it around in their fingers and proclaimed that it was perfect for the application. None of the parties in the ensuing litigation disagreed that this occurred.

Three years later, the land Owner sued the Marine Contractor and decided not to bring the Engineering Firm into the litigation. In the usual tangled web, the land Owner had claims against the Marine Contractor, the Engineering Firm, and the General Contractor. The Owner excluded the General Contractor from the suit because they were best friends. The Owner excluded the Engineering Firm from the suit because he did not know their role. Once the facts became known the Owner was too entrenched in his position that it simply must have been the Marine Contractor's fault. In an effort to bring the offending party into the suit, the Marine Contractor brought claims against the Engineering Firm.


It was under this factual scenario that the most culpable party, the Engineer, who stood with the soil in his hands and said "this is perfect for the application," bore no responsibility because the Marine Contractor lacked privity with the Engineering Firm. Privity of contract is, essentially, a connection or relationship between two contracting parties. Generally speaking, a lack of privity is not usually a defense when you are selling a product or goods because the law implies warranties. However, in Maryland, in the case described, no warranties applied to the service the Engineering Firm provided. The only claim made by the Land Owner was a breach of contract claim and not a negligence claim (a tort). Since he, the landowner, did not bring a negligence claim, the Marine

Contractor could not seek contribution from the Engineering Firm as a joint tortfeasor. The Owner could have sued and recovered from the Engineering Firm because it was the Owner who hired them. By the time the Owner learned all the facts and that he had a claim against the General Contractor and the Engineering Firm, the owner was too emotionally invested in "nailing the Marine Contractor to the cross" to pursue the culpable party. Ultimately, from the Marine Contractor's point of view, the file was resolved favorably but not until nearly two years of litigation had passed.

All of the problems which the Marine Contractor encountered could have been solved by terms in their contract with the General Contractor. First and most obviously, why not have a contractual term which limits the length of time during which a piece of litigation may be brought to something shorter than three years? Second, why not have a term which requires the General Contractor or Owner to indemnify the Marine Contractor for the negligence of others the owner may hire. Third, when the Marine Contractor was uncomfortable with the soil chosen as backfill, he should not have preceded without a simple one paragraph document signed by all parties. In a single paragraph, the Engineer could have been held accountable at the point at which they were rolling the soil in their fingers. How would your contract handle obvious negligence by someone else who was working on the project?

Lochner Law Firm, P.C.

182 Duke Street
Annapolis, MD 21401
P: (443) 716-4400
F: (443) 716-4405
BOATINGLAW.COM



For Sale


20' x 23' x 53"
Sectional Spud Barge

Good Shape \$11,000.00
Call 410-643-5935

The 31st Annual
Marine Trades Association
Conference

is scheduled for

Tuesday, September 14th
Port Annapolis Marina in Annapolis



Marine Trades Association of Maryland

Featuring 1/2 Day Format
& Options for Everyone -
Employer and Employee alike.

In addition to updates on the economic impact of boating, our legislative agenda and news on the health of the Bay...

PICK FROM SESSIONS INCLUDING:

- Marine Travel Lift & Fork Lift Operation
- Customer Service Training
- Sales, Marketing & Advertising in the New World of Facebook, Twitter & LinkedIn
- Permit Procurement for Expansion, the New General Discharge Permit & Dealing with Hazardous Materials

These topics and more will make up this year's 'something for everyone' MTAM fall conference.

\$50 per Person for General Sessions
\$125 for Travel Lift & Fork Lift Training.

To make reservations or
for additional information contact:

Susan Zellers - 410-269-0741
susan@mtam.org

For Sale

Advertise Your
Equipment Here

Full Access Members:

\$25.00

Affiliate Members:

\$50.00

Non-Members:

\$100.00

BECOME AN M.M.C.A. MEMBER TODAY



Maryland Marine Contractors Association
8626 Brooks Drive, Unit 103
Easton, Maryland 21601



Maryland Marine Contractors Association, Inc.

PLEASE NOTE NEW MAILING ADDRESS:

8626 Brooks Drive, Unit 103
Easton, Maryland 21601

Phone: 410-822-0510
Fax: 410-822-4669
E-mail: info@mdmarinecontractors.org

www.mdmarinecontractors.org

M.M.C.A. Objectives

- Provide a platform for Marine Contractors and Tradesmen to voice their concerns.
- Unify to create a voice that will be heard.
- Promote dialog between government and our industry.
- Protect our Industry from over regulation.
- Promote trade professionalism.
- Be an information resource for Marine Contractors and Tradesmen.
- Lend support to related causes that benefit our industry.
- Be an advocate for our membership.