



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

FEB - 3 1994

Bryson F. Popham, Esquire  
Shapiro and Olander, P.A.  
182 Duke of Gloucester Street  
Annapolis, Maryland 21401

Dear Mr. Popham:

As you are aware, on October 11, 1991, on behalf of Joseph Rushton and Francis Codd (Appellants), you filed a notice of appeal with the Secretary of Commerce from an objection by the State of Maryland to the Appellants' consistency certification for a U.S. Army Corps of Engineers' permit to fill nontidal wetlands located in Anne Arundel County, Maryland.

By letter dated January 10, 1994, we were informed by the State that Anne Arundel County had granted the Appellants' request for a variance for their project under the Chesapeake Bay Critical Area Program and therefore the State was withdrawing its consistency objection. In addition, you have confirmed that a variance has been granted and have requested that the Appellants' pending appeal be dismissed.

I have been delegated the authority to grant uncontested dismissals in consistency appeals. The appeal is hereby dismissed, with prejudice. The Appellants are barred from filing another appeal from the State's objection to his original consistency certification. This is final agency action for purposes of judicial review.

Sincerely,

Margo E. Jackson  
Assistant General Counsel  
for Ocean Services

cc: Meredith Gibbs, Esquire  
Linda Morrison

