



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

OFFICE OF THE GENERAL COUNSEL

FEB 15 2008

VIA ELECTRONIC AND U.S. MAIL

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Ms. Sarah W. Cooksey
Delaware Department of Natural Resources and Environmental Control
Division of Soil and Water Conservation
89 Kings Highway
Dover, DE 19901
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Re: Consistency Appeal of G. Walter Swain

Dear Mr. Paradee and Ms. Cooksey:

On February 4, 2008, Mr. G. Walter Swain filed an appeal with the Secretary of Commerce (Secretary), pursuant to the Coastal Zone Management Act (CZMA). Mr. Swain (hereinafter referred to as the Appellant) appeals an objection by the State of Delaware, concerning the proposed construction of a marina and associated structures at the confluence of Cedar Creek and Mispillion River, in Milford, Delaware.

The Secretary is responsible for deciding appeals filed under the CZMA. NOAA's Office of the General Counsel assists the Secretary in carrying out this responsibility and has been delegated certain responsibilities associated with processing consistency appeals, including establishing briefing schedules and requiring the submission of briefs and supporting materials on procedural issues.

The following briefing schedule will govern this appeal:

On or before March 5, 2008, the appellant shall file his principal brief and appendix. In addition to all arguments in support of his appeal, Appellant shall address any procedural issues surrounding the nature and timing of his consistency certification to Delaware and the State's objection to this certification, along with any supporting materials.

On or before April 4, 2008, the State of Delaware shall file its principal brief, accompanied by any supplemental appendix, if required. In addition to its arguments in



regards to this current appeal, the State shall address any procedural issues surrounding the nature and timing of appellant's consistency certification to Delaware and the State's objection to this certification, along with any supporting materials.

On or before April 24, 2008, the appellant may file a reply brief, accompanied by any supplemental appendix, if required.

The deadlines listed above will not be continued absent compelling reasons. At the conclusion of this schedule, we will, to the extent necessary, identify any additional information necessary to rule on this appeal. The parties are directed to the briefing and filing requirements contained in regulations published at 15 C.F.R. § 930.127. The parties are also reminded that all submissions must be served on the opposing party.

Questions should be directed in writing to Thomas Street, NOAA Office of the Assistant General Counsel for Ocean Services, at thomas.street@noaa.gov, with a copy to the opposing party.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel La Bissonniere", with a long horizontal flourish extending to the right.

Joel La Bissonniere
Assistant General Counsel
NOAA Office of the Assistant
General Counsel for Ocean Services