

July 3, 2003

Roseann B. MacKechnie, Clerk of the Court
United States Court of Appeals
For the Second Circuit
United States Court House
40 Foley Square
New York, NY 10007

Attention: Operations Division, Calendar Team

RE: ***Riverkeeper v. Collins***, No. 03-4313 (2d Cir., filed Feb. 11, 2003)

Dear Ms. MacKechnie:

As the Federal respondents in the above-captioned petition for review, we filed and served a motion to dismiss for lack of jurisdiction on June 3, 2003. Petitioner filed a memorandum in opposition to the motion to dismiss on June 17, 2003. The motion has been presented to a panel and is scheduled to be decided on submission on July 28, 2003. By letter dated June 26, 2003, the petitioner requested that the decision on the motion to dismiss be postponed and an oral argument granted.

We do not believe that an oral argument is necessary to decide the motion to dismiss. The legal arguments pertinent to the motion are set out thoroughly in the pleadings before the motions panel, and we do not believe additional delay is warranted. As we have argued in our motion to dismiss, the Supreme Court's decision in *Heckler v. Chaney*, 470 U.S. 821 (1985), disposes of this case.

If it is determined that oral arguments are necessary, Federal respondents stand ready to argue the motion. However, as we have shown in our submissions, the legal issue in the

case is well-settled and we do not believe that a delay is warranted, particularly considering the motion to dismiss has already been presented to a panel to be decided on July 28, 2003.

Respectfully,

/RA/

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cc: Service List

