



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

JAN 24 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William E. Pritchard, III., Esquire
Adams and Reese
4500 One St. Louis Centre
Mobile, Alabama 36633

Dear Mr. Pritchard:

You filed on behalf of D'Olive Joint Venture (Appellant), a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. §§ 1451 et seq., and the Department of Commerce's implementing regulations, 15 C.F.R. Part 930, Subpart H. The appeal was taken from an objection by the State of Alabama to the Appellant's proposal to fill 0.47 acres of forested wetlands in order to widen an existing road for a residential development on Mobile Bay.

Section 307(i) of the CZMA provides for the collection of fees to cover the costs of processing consistency appeals. Specifically, section 307(i) provides that the Secretary of Commerce collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals.

The Federal regulations implementing the CZMA provide, in part, that the Secretary may dismiss an appeal for good cause. See 15 C.F.R. § 930.128. On October 27, 1994, a letter was sent to you, as the representative for the Appellant, requesting the payment of the application fee and advising that if the fee was not sent within 30 days of your receipt of that letter, the appeal would be dismissed. According to the certified receipt card returned by the postal service, you received that letter on November 2, 1994. To date, we have not received the application fee or a request for fee waiver.

In light of the failure of the Appellant to submit payment for the application fee for this appeal, I am dismissing the appeal. D'Olive Joint Venture may not file another appeal from the State of Alabama's objection to this permit application. This is a final agency action for purposes of judicial review.

Sincerely,

Diana H. Josephson

cc: Mr. E. John Williford
Chief, Field Operations

See: ES-DUS

Control No. 61368

