



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

NOV 29 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Edward M. Borges
Managing Partner
ERA, S.E.
Chase Manhattan Bank Building
Hato Rey, Puerto Rico 00918

Dear Mr. Borges:

ERA, S.E (Appellant), filed 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 Puerto Rico Planning Board (PRPB) to the Appellant's consistency certification for a U.S. Army Corps of Engineers' permit to reconstruct a small, wood pier.

Recent amendments to the CZMA created a section 307(i) which provides for the collection of fees to cover the costs of processing consistency appeals. Specifically, section 307(i) provides that the Secretary collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals. It also provides that the Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing an appeal.

The Federal regulations implementing the CZMA provide, in part, that the Secretary may dismiss an appeal for good cause. 15 C.F.R. § 930.128. In September a letter was sent to ERA, S.E., requesting the payment of \$2,874 in costs and advising that if the fee was not sent by October 31, 1994, the appeal would be dismissed. In response, a letter was received from Mr. Raymond O'Neill, on behalf of the Appellant, advising that the partnership has chosen not to pay the costs and to forego release of the decision.



In light of the failure of the Appellant to submit payment for the costs of processing the appeal, I am dismissing the appeal. ERA, S.E. may not file another appeal from the PRPB's objection to this permit application. This is a final agency action for purposes of judicial review.

Sincerely,

Diana H. Josephson

Diana H. Josephson

cc: Mr. Raymond O'Neill,
ERA, S.E.
Ms. Patria G. Custodio,
Puerto Rico Planning Board
Mr. William T. Coffey,
Corps



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Ms. Patria G. Custodio
Chairperson
Puerto Rico Planning Board
De Diego Avenue, Stop 22
San Juan, Puerto Rico 00940-9985

Dear Ms. Custodio:

ERA, S.E (Appellant) filed 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 Puerto Rico Planning Board (PRPB) to the Appellant's consistency certification for a U.S. Army Corps of Engineers' permit to reconstruct a small, wood pier.

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