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

June 10, 1993

Mr. H. Stephen Snyder
Director of Planning and Certification
South Carolina Coastal Council
Ashley Corporate Center
4130 Faber Place, Suite 300
Charleston, South Carolina 29405

Dear Mr. Snyder:

By his letter dated January 7, 1993, Jesse J. Floyd (Appellant) filed a notice of intent to appeal the South Carolina Coastal Council's (SCCC) objection to his consistency certification for his proposal to fill and impound wetlands in Horry County, South Carolina. The appeal was noted 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 Secretary of Commerce has delegated to me the responsibility for the conduct of consistency appeals filed under section 307 of the CZMA. See Department Organization Order 10-15, issued January 15, 1988.

Section 307(i) of the CZMA provides for the collection of fees to cover the costs of processing consistency appeals. Accordingly, by his letter to the Appellant dated January 22, 1993, James W. Brennan, Acting General Counsel for the National Oceanic and Atmospheric Administration (NOAA), requested that the Appellant submit an application fee payment payable to NOAA, or request an application fee waiver, within 30 days of the Appellant's receipt of NOAA's correspondence. NOAA did not receive a certification card verifying the Appellant's receipt of the January 22, 1993, letter. Accordingly, by letter dated March 22, 1993, NOAA extended the fee payment deadline by 30 days from the date of receipt. The Appellant received NOAA's March 22, 1993, letter on March 24, 1993. However, to date, the Appellant has not provided NOAA with either an application fee payment or an application fee waiver.

The Federal regulations implementing the CZMA provide, in part, that "[t]he Secretary may dismiss an appeal for good cause." 15 C.F.R. § 930.128. Because the Appellant failed to submit an application fee payment or request a fee waiver, I am

THE ADMINISTRATOR

dismissing the appeal for good cause pursuant to 15 C.F.R. § 930.128. The Appellant may not file another appeal from the SCCC's objection to his permit application. This is a final agency action for purposes of judicial review.

Sincerely,

D. James Baker

cc: Dr. Jesse J. Floyd
C.C. Harness, III
LTC Mark E. Vincent

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The Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

June 10, 1993

Dr. Jesse J. Floyd
1411 Barnwell Street
Columbia, South Carolina 29201

Dear Dr. Floyd:

By your letter dated January 7, 1993, you filed a notice of intent to appeal the South Carolina Coastal Council's (SCCC) objection to your consistency certification for your proposal to fill and impound wetlands in Horry County, South Carolina. The appeal was noted 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 Secretary of Commerce has delegated to me the responsibility for the conduct of consistency appeals filed under section 307 of the CZMA. See Department Organization Order 10-15, issued January 15, 1988.

Section 307(i) of the CZMA provides for the collection of fees to cover the costs of processing consistency appeals. Accordingly, by his letter to you dated January 22, 1993, James W. Brennan, Acting General Counsel for the National Oceanic and Atmospheric Administration (NOAA), requested that you submit an application fee payment payable to NOAA, or request an application fee waiver, within 30 days of your receipt of that correspondence. NOAA did not receive a certification card verifying your receipt of the January 22, 1993, letter. Accordingly, by letter dated March 22, 1993, NOAA extended the fee payment deadline by 30 days from the date of receipt. Our records indicate that you received NOAA's March 22, 1993, letter on March 24, 1993. However, to date, you have not provided NOAA with either an application fee payment or an application fee waiver.

The Federal regulations implementing the CZMA provide, in part, that "[t]he Secretary may dismiss an appeal for good cause." 15 C.F.R. § 930.128. Because you have failed to submit an application fee payment or request a fee waiver, I am

THE ADMINISTRATOR

dismissing the appeal for good cause pursuant to 15 C.F.R. § 930.128. You may not file another appeal from the SCCC's objection to this permit application. This is a final agency action for purposes of judicial review.

Sincerely,

D. James Baker

cc: H. Stephen Snyder
C.C. Harness, III
LTC Mark E. Vincent