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

OCT 25 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Enrique Alcaraz Micheli
Condominio Profesional 207
Mendez Vigo 70 Oeste
Mendezgüez, Puerto Rico 00680

Dear Mr. Micheli:

You filed on behalf of Filiberto S. Montalvo Durand (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 Puerto Rico Planning Board for the legalization of an unauthorized construction of a wooden dock and concrete cover added to a gabions revetment that were also constructed at Joyudas Ward, Cabo Rojo, Puerto Rico.

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 May 3, 2000, a letter was sent to you, as the representative for the Appellant, advising you of the fee provisions and stating that the application fee or request for a fee waiver was due within 30 days of receipt of that letter. According to the certified receipt card returned by the postal service, you received that letter on May 9, 2000. On July 19, 2000, another letter was sent to you 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, you received that letter on July 26, 2000. 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. Filiberto S. Montalvo Durand may not file another appeal from the Puerto Rico Planning Board's objection to this permit application. This is a final agency action for purposes of judicial review.

Sincerely,

Scott B. Gudes

cc: Josè R. Caballero-Mercado
Chairperson, PRPB
U.S. CoE, San Juan