



CORAL BAY COMMUNITY COUNCIL

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Appropriate Fill Activities -Pile Driving Application



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Department of Planning and Natural Resources
Coastal Zone Management Program
8100 Lindberg Bay, Suite #61
Cyril E. King Airport Terminal Building, 2nd Floor
St. Thomas, VI 00802

Subject: Omission of Fill Activities in Permit Applications CZJ-3-14(L) and CZJ-4-14(W)

Dear Commissioner Oriol and Director Williams:

The Summer's End Group, LLC (SEG), in their environmental assessment reports (EARs) for permit applications CZJ-3-14(L) and CZJ-4-14(W), stated in two sections (6.02, 6.05a) "[t]he project proposed no filling or dredging" and "[n]o dredging or fill is proposed...". According to VI Code (V.I.C.) Title 12 Chapter 21 Section 902(q) the definition of fill "means earth or any other substance or material, **including pilings** placed for the purposes of erecting structures thereon, placed in a submerged area" (emphasis added). Given that SEG will be placing approximately 1,333 pilings, they are in fact conducting fill activities and need to revise their application to reflect this fact and to describe impacts associated from placing fill into Territorial Waters.

Furthermore, according to 12 V.I.C. §906(a)(8) (emphasis added):

- (a) Development policies in the first tier shall be as follows:
- (8) to assure that dredging or filling of submerged lands is clearly in the public interest and to ensure that such proposals are consistent with specific marine environment policies contained in this chapter. To these ends, **the diking, filling, or dredging of coastal waters, salt ponds, lagoons, marshes or estuaries may be permitted** in accordance with other applicable provisions of this chapter **only where there are no feasible, less-environmentally damaging alternatives and, where feasible, mitigation measures have been provided to minimize adverse environmental effects**, and in any event shall be limited to the following:
 - ... (iii) new or expanded port, oil, gas and water transportation, and coastal dependent industrial uses, including commercial fishing facilities, cruise ship facilities, and boating facilities and marinas; ..."

SEG provided only two alternatives for analysis, the No Action Alternative and the Preferred Alternative. As stated in the *Major Land & Water Development Permit Application* guidelines for the Earth Change Plan/Environmental Assessment Report Section 9.00 Alternatives to Proposed Action should address (emphasis added) “**all such reasonable alternatives**, including a no action alternative...” The EAR should also “[d]escribe alternatives which would reduce or eliminate any adverse effects, **even if such alternatives substantially impede the attainment of the project objectives** and are more costly”. SEG has failed to meet the requirements for this section of the permit application guidelines and, as such, fails to provide the information necessary to determine if there are other less-environmentally damaging alternatives as required by 12 V.I.C. §906(a)(8).

Additionally, several other public comment respondents (e.g. see the Coral Bay Community Council’s 29 August, 2014 *CZM Consistency Analysis and Environmental Impact Analysis*) have described the lack of appropriate mitigation measures to minimize adverse environmental effects. This also fails to meet the requirements of 12 V.I.C. §906(a)(8).

Given these deficiencies in the SEG documents, the current permit application should be denied because: (1) the application has not met the requirements of the VI Code and the permit application guidelines; (2) a determination of the least environmentally damaging alternative has not been made; and, (3) sufficient mitigation has not been described to minimize adverse environmental impacts.

Very truly yours,

Patricia C. Reed
Environmental Projects Manager
Coral Bay Community Council