



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
ANTILLES OFFICE
FUND. ANGEL RAMOS ANNEX, SUITE 202
383 F.D. ROOSEVELT AVE.
SAN JUAN, PUERTO RICO 00918

REPLY TO
ATTENTION OF

March 8, 2016

Regulatory Division
South Permits Branch
Antilles Section
SAJ-1982-05019 (SP-JCM)

William F. McComb, PE
P.O. Box 303408
St. Thomas, US Virgin Islands 00803

Dear Mr. McComb:

Reference is made to your Department of the Army (DA) permit application, submitted on behalf of T-Rex St. John, LLC for the proposed development of the Sirius Marina. The project would be located at Coral Harbor, 10A Estate Emmaus, Coral Bay, St. John, U.S. Virgin Islands. Please refer to number SAJ-1982-05019 (SP-JCM) in future correspondence regarding this case.

On January 25, 2015, the U.S. Army Corps of Engineers (Corps) issued a Public Notice (PN), requesting comments regarding the referenced permit application. In response to the PN, the Corps received approximately 2,340 e-mails, 8,300 letters, and 4,380 signed petitions, expressing concerns and/or objections to the issuance of a permit for the proposed marina. The majority of the communications were submitted as format letters or variations of format letters with personal comments, through national and local organizations such as the National Parks Conservation Association (NPCA), Friends of the Virgin Islands National Park (FVINP), Save Coral Bay (SCB), and Coral Bay Community Council (CBCC). However, numerous personal communications were directly submitted to the Corps by individuals, including residents and visitors of Coral Bay, as well as members of the general public expressing interest in Coral Bay. Two particularly detailed communications opposing the proposed project were submitted by CBCC and SCB. In addition, the Corps also received about 15 communications (including e-mails and letters) and 800 signed petitions in favor of the issuance of a permit for the proposed marina. The majority of the communications and petitions in favor of the project were submitted by members of the Moravian Church Community.

The attached digital disk includes copy of all the communications received in response to the PN. Therein, we also provide an Excel spreadsheet where we have summarized and categorized by topic a list of 119 specific comments extracted from the communications received from the public. In addition, the disk includes copy of the communications received from the U.S. Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), U.S. Fish & Wildlife Service (FWS), and

National Park Service (NPS) in response to our PN. In these communications, the federal agencies also express concerns about the proposed project.

We have reviewed the information provided in your permit application, as well as the comments received in response to our PN. The Corps is concerned with the potential direct, indirect and cumulative impacts of the proposed marina on the public interest and the aquatic environment. Please be advised that additional information, including your response or rebuttal to the comments received in response to the PN, is necessary for the Corps to be able to complete the required regulatory processing and evaluation, and make a final decision regarding your permit application. Additional information is necessary to complete the documentation and procedures required by the National Environmental Policy Act (NEPA). Also, additional information and/or modifications to the proposed project are necessary to document and ensure that it would not be contrary to the public interest pursuant to 33 CFR Part 320.4. Further information is also necessary to complete our analysis of compliance with the Clean Water Act (CWA) Section 404(b)(1) Guidelines pursuant to 40 CFR Part 230 for the proposed discharge of dredge or fill material in waters of the U.S. Moreover, additional information is necessary to complete the interagency consultation procedures required by Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act (ESA) and the Magnuson-Stevens Act (MSA).

As required by NEPA and the CWA Section 404(b)(1) Guidelines, the Corps must consider a broad range of alternatives during the evaluation of a permit application. More specifically, the Corps must give detailed consideration to practicable alternatives that focus on the accomplishment of the applicant's and the public's interest and needs. Our regulations define a practicable alternative as an alternative that is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. The Corps is neither a proponent nor an opponent of the applicant's proposal which will be identified as the "applicant's preferred alternative." However, as required by 40 CFR Part 230.10(a) the Corps may only authorize the project's least environmentally damaging practicable alternative (LEDPA). That is, no discharge of dredged or fill material shall be permitted if there is a practicable alternative, which would have less adverse impact on the aquatic ecosystem providing the alternative does not have other significant adverse environmental consequences.

In order to satisfy the above stated regulatory requirements and procedures applicable to the review of your permit application, we request your submittal of the information detailed under the topics listed below. For your convenience, to the best of our ability, we have attempted to incorporate into these topics the information necessary to address the relevant issues or concerns identified in the communications received in response to our PN. Any other information you feel may be helpful in order to fully justify the proposal should also be submitted in response to this letter.

A. Project Scope, Description and Drawings - Your permit application was submitted requesting Corps authorization for the construction of a private commercial offshore marina with ancillary facilities in adjacent uplands at Coral Bay. However, various sections of the Environmental Assessment Report (EAR), including the Marina Market Analysis Report, submitted with the permit application make reference to a resort, which would be developed in association with the proposed marina. We request that you please clarify the scope of this proposed resort and its relationship with the proposed marina in terms of interdependency and economic viability. Specifically, please clarify whether the proposed resort and marina are interdependent components of a single and complete project, or whether each component could have independent utility and economic viability on their own. Please be advised that portions of a multi-phase project that depend upon other phases of the project do not have independent utility. If the proposed marina and the other components of the resort do not have independent utility, it may be necessary to evaluate them as a single action for NEPA and Corps Regulatory purposes. In this regard, please clarify whether any components of the proposed resort development would require discharges of dredged or fill material into waters of the U.S. or the installation of structures or work in navigable waters of the U.S. Also, please clarify whether the proposed resort development would require impacts or alterations to an existing gut or ravine which traverses through Parcel 10A.

In addition to the above, please note that many of the drawings included in your permit application and its attached EAR are somewhat inconsistent in terms of components of the proposed marina, particularly the size and details of the docks and slips. Although the information submitted was sufficient for PN purposes, consistent and more detailed drawings would be required to complete the evaluation of your permit application. Therefore, we request your submittal of revised drawings, accurately and consistently depicting the components and layout of the proposed marina. Please ensure that the revised drawings clearly illustrate which docks would be pile supported and which docks will be floating docks. Also, please clarify in the drawings whether reverse intake and outfall lines from the reverse osmosis or waste water treatment plant would be installed in waters of the U.S. as part of the proposed project. Furthermore, the drawings should clearly illustrate all project components, which would be installed or built in waters of the U.S. All drawings should depict the project components relative to the ordinary high water mark for non-tidal waters, and/or the mean high tide and highest high tide line for tidal waters.

B. Project Location

1. Alternatives analysis - The documents submitted as part of your permit application did not include any information about alternative sites considered for the location of the proposed project. In order to satisfy the requirements of NEPA and the 404(b)(1) Guidelines and properly determine whether the proposed project is the LEDPA, please submit an analysis describing alternative sites considered to locate the proposed project. This analysis must include a proper evaluation and balancing of the

practicability of the different sites to meet the overall project purpose (as established in our PN) and their potential effects (benefits and detriments) on the public interest and the environment, particularly the aquatic ecosystem. As part of this alternatives analysis we request that you: (1) define a set of criteria for site evaluation; (2) define a system to rate a site against each of the criteria; (3) describe a method to comparatively weigh each rating as to its importance; and (4) prepare a report describing the search for the sites, identification of their location and rating, and a narrative which shows which site is the preferred alternative and whether it is the LEDPA.

2. Federal investment in Coral Bay - As explained in the enclosed letters from EPA and the CBCC (see attached disk), significant investments have been made by EPA, NMFS and the US Department of Agriculture (USDA) to support the development and implementation of watershed level management plans and actions directed to reduce land-based sources of pollution and improve water quality, seagrasses and corals within Coral Bay. The CBCC has been involved for many years in the development and implementation of a Watershed Management Program for Coral Bay and has received various grants and awards from NMFS, EPA and the USDA in this regard. We request that you please include in your response to this letter an assessment and discussion regarding whether the proposed project would be compatible or in conflict with the goals, programs and investments supported by these Federal agencies and the CBCC to improve the Coral Bay watershed, water quality and aquatic resources.

3. Exposure to prevailing and storm winds and waves - The EAR submitted with the permit application describe that based on the orientation of Coral Harbor, the project site is well protected and has limited fetch. However, this conclusion was mostly based on general wave and wind information for the U.S. Virgin Islands, and no local data measured specifically for the project site was provided. On the other hand, the project drawings submitted illustrate that wave attenuators would be installed in some of the marina piers. In addition to the above, the Corps has received numerous communications from the public indicating that prevailing wind and wave patterns, as well as potential effects of storms and hurricanes, at the proposed project site could create unstable and unsafe conditions for boats, which could in turn affect the viability of the project.

The Corps understands that additional local data collection and analysis are necessary to adequately evaluate the potential effects of the prevailing and storm wind and wave conditions on the proposed docking marina. This information is necessary not only to evaluate the feasibility of the proposed project location and design, but also to prevent potential piecemealing in the evaluation of the project, if modifications in the project design or additional structures such as groins or wave breakers are determined to be necessary to protect the proposed marina structures and vessels from the effects of the waves and wind. Please provide these data and analysis in your response to this letter.

4. Virgin Islands National Park (VINP) and Virgin Islands Coral Reef National Monument (VICRNM) - The Corps is very concerned with the proximity of the proposed marina to the VINP and the VICRNM, and its potential direct, indirect and cumulative impacts on the sensitive marine resources located therein, especially within Hurricane Hole. This concern was also expressed by many commenters to our PN, in particular by the NPS, which is the federal agency responsible for the management of the VINP and VICRNM.

The VICRNM was established on January 17, 2001, by Presidential Proclamation 7399 to provide greater protection to sensitive coral reef resources located within federally owned submerged lands beyond the VINP. In light of this proclamation, recreational or commercial boat anchoring is prohibited within the VICRNM. In addition, operation of personal watercraft is prohibited in the VINP and VICRNM.

Hurricane Hole, a NPS designated no-anchoring bay, which is part of the VICRNM, is located approximately 1.5 miles from Coral Harbor. The NPS has described that Hurricane Hole supports the most extensive pristine and well developed mangrove habitat on St. John. The NPS also described that aside from the Hurricane Hole area, the majority of the VICRNM and some of the most pristine beach and marine habitat in VINP lie on the south side of St. John and could be immediately accessed from south of Coral Harbor. In addition, the NPS has noted that Lagoon Point, which has been designated as a National Natural Landmark (NNL), is located in Coral Bay directly along the transit routes to and from the proposed marina.

The proposed marina would be reasonably expected to increase boat traffic activity in the vicinity of Coral Bay, not only by the vessels occupying the marina, but also by their tender boats and recreational personal watercrafts, such as dinghies and jet skis. The NPS has expressed that due to limited resources and personnel it could be difficult for them to effectively enforce the boating regulations, protect the sensitive marine resources, and respond to potential boat accidents and groundings within the VINP and VICRNM with the increased boating activity that could be expected from the development of the proposed marina.

In spite of the above, the information provided in your permit application did not include an evaluation of the potential effects of the proposed marina on the marine resources within the VINP, VICRNM, or Lagoon Point NNL. Based on the above, it is imperative for our evaluation of your permit application that you please complete and submit an assessment of the potential direct, indirect and cumulative effects of the proposed project on the resources of the VINP, VICRNM and Lagoon Point NNL, including but not limited to boat traffic, enforcement, safety, marine resources, water quality, landscape, viewshed, lightscape, soundscape, carrying capacity, and visitor use and experience. In addition, as part of this assessment, please describe in detail the measures you propose to implement to adequately mitigate (i.e., avoid, minimize and

compensate) any potential adverse effects of the proposed project on the VINP, VICRNM and Lagoon Point NNL.

5. Economics - Numerous commenters to our PN expressed concerns with the potential adverse effects of the proposed marina on the existing ecotourism based attractions, services, businesses and economy of Coral Bay. Numerous communications were also received from visitors of Coral Bay expressing that they would not return to St. John if the proposed marina is built. In order to adequately address these issues in our public interest review of your permit application and comply with our requirements under NEPA, we request that you please provide an analysis of the potential effects of the proposed project on the existing business and economy of Coral Bay.

6. Infrastructure - Numerous commenters to our PN expressed concerns with the potential adverse effects of the proposed marina on the infrastructure at Coral Bay, particularly with respect to traffic, energy, potable water, solid wastes and wastewater. The EAR submitted with your permit application provided evidence of traffic estimates, potable water demand calculations, wastewater collection and disposal plans, energy demand calculations, and solid waste management plans. However, the EAR indicates that detailed studies to determine fresh water yield and viability of wells for potable water production have not been completed. Therefore, it is not clear how the project would satisfy its potable water demands, and how it would avoid adverse impacts to the fresh water aquifer in the area. Please provide supplemental information to document how these issues would be addressed. Furthermore, no documentation was provided to evidence that the pertinent agencies (i.e., Virgin Islands Water and Power Authority, Virgin Islands Waste Management Authority, and Virgin Islands Department of Public Works) have evaluated, approved or commented with regards to the infrastructure needs or potential impacts of the project, including any related studies, calculations or plans. In order to adequately evaluate the potential effects of the proposed project on the existing infrastructure of Coral Bay, please submit evidence of the evaluation by those agencies regarding the proposed marina.

C. Size and Design of Proposed Docking Structure

The Corps is concerned with the size and layout of the proposed marina, and its potential impacts to the existing resources, conditions and uses within Coral Bay. As discussed below in more detail, we request that you evaluate possible project modifications and measures, including reductions and/or modifications in the size or layout of the proposed project and structures, to prevent potential adverse effects on the aquatic resources, and the existing conditions and uses within Coral Bay. In addition, please submit a discussion of which measures would be implemented to mitigate (i.e., avoid, minimize and compensate) those potential impacts. Particular considerations that should be addressed as part of this evaluation include:

1. Loss of waters of the U.S. - The Corps is very concerned with the proposed project impacts to open waters and mangrove wetlands. According to the information provided in the permit application, the construction of the proposed marina would require the discharge of 582 cubic yards of dredged fill material over 0.34 acres on open waters of Coral Harbor for the construction of the marina bulkhead, concrete apron and boat ramp. The permit application further states that the construction of the bulkhead and boat ramp would also result in the loss of 0.1465 acres of mangroves. However, the Corps understands that the impacts of the proposed project to wetlands may have been underestimated.

A review of the plans, illustrations and aerial photographs submitted with the permit application indicate that fringing mangroves wetlands, which were not included in the impact estimates could be present at additional locations along the proposed bulkhead and within the proposed dredging footprint, particularly along the shoreline of Usher Cay. In addition, the construction of the proposed bulkhead could sever the surface hydrological connection between Coral Bay and a salt pond located to the east of the proposed marina. Information provided by SCB indicates that a tidal mangrove channel presently provides surface hydrological connection between the bay and the salt pond. The potential loss of waters of the U.S. which could result from severing this connection and isolating the pond were not included in the impact estimates described in the permit application. Likewise, a site visit conducted by the Corps on October 8, 2015, revealed that the proposed dredged material disposal site may contain wetlands. The information provided with the permit application did not include an evaluation of the potential presence of wetlands within the proposed dredge disposal site, nor an estimate of potential wetland impacts therein. In order to more precisely assess the extent of impacts to waters of the U.S., including open waters and mangroves, we request that you please complete a more detailed evaluation of the presence of waters of the U.S. within all project areas and prepare a plan illustrating the boundaries of those waters overlaid with all components of the proposed project.

Moreover, the information submitted with the permit application did not include a discussion of the efforts completed to avoid and minimize impacts to waters of the U.S. As stated above, we request that you please provide evidence of your evaluation of practicable modifications, including relocation, modification or reduction of project components and its footprint to avoid and minimize to the maximum extent, proposed impacts to waters of the U.S. In this regard, please discuss why the proposed bulkhead is necessary to accomplish the project purpose; whether a bulkhead with a smaller footprint within waters of the U.S. could be practicable; and whether the existing boat ramp could be incorporated as part of the project instead of building a new one as proposed. Please be reminded that according to 40 CFR Part 230.10(a) the Corps may only authorize the least environmentally damaging practicable project alternative (LEDPA).

In addition, please note that via letter dated January 8, 2016 (copy provided in attached disk), NMFS - Habitat Conservation Division (NMFS-HCD) provided Essential Fish Habitat Conservation Recommendations for your proposed project, particularly to avoid and minimize impacts to mangrove wetlands. Please review NMFS-HCD communication and provide adequate responses to their concerns and requests. This information will be necessary to complete our required interagency consultation pursuant to the MSA.

2. Impacts to seagrass and benthic habitats - The Corps understands that the assessment of potential impacts to seagrasses and benthic habitats provided in your permit application should be revised to provide a more detailed analysis and discussion of the rationale and considerations used to estimate those potential impacts, particularly with respect to potential impacts during construction and operation of the proposed marina.

The revised assessment should clearly illustrate, using benthic and bathymetric maps overlaid with the footprint of the project components, and the location, extent and source of all potential impacts by habitat type. All project related components potentially affecting seagrasses should be considered in this analysis, including the proposed fill and dredge areas, navigation channel, docking structures, and associated basin and navigation areas. In this regard, please note that the transects established for the benthic assessment, which was included in the project's EAR and permit application, did not extend into the proposed dredge and fill areas. Although the EAR described those areas as barren soft-bottom habitat, information provided by SCB evidence that seagrass and other SAV are located within the proposed dredge and fill areas. The analysis of potential impacts to seagrass and benthic habitats should also consider the draft, movement and anchoring of construction vessels and barges. In addition, the analysis should consider the potential effects of the operation of the marina, including draft considerations for propeller wash and turbidity generated by the vessels using the facility, as well as service barges such as the fuel barge. Furthermore, the analysis should consider the proposed location for the reverse osmosis and waste water treatment plants intake or outfall pipelines and their potential effects on seagrass beds. Similarly, the analysis should include the proposed site to relocate the existing dinghy dock and the existing mooring buoys and boats, as well as of any related impacts to benthic habitats.

As part of this revised analysis we ask that you please evaluate and discuss the practicability of potential design modifications or reductions in the size of the proposed project footprint (including the proposed structures and dredge area, as well as construction and operation footprints), which could avoid and minimize the potential adverse effects to seagrasses and benthic habitats.

In addition, please note that via letter dated January 8, 2016 (copy provided in attached disk), NMFS - Habitat Conservation Division (NMFS-HCD) provided Essential

Fish Habitat Conservation Recommendations for your proposed project, particularly to avoid and minimize impacts to seagrass. Please review NMFS-HCD communication and provide adequate responses to their concerns and requests. This information will be necessary to complete our required interagency consultation pursuant to the Magnuson-Stevens Act.

3. Existing mooring buoys and moored boats - The EAR submitted as part of your permit application acknowledges that a mooring field with more than 100 moored vessels, primarily private sailboats is located within Coral Harbor. Many of those boats and moorings are located within the footprint of the proposed marina and would have to be relocated prior to project construction. The Corps has not received any information describing the proposed plan and process for relocating the existing moorings and boats, including details about the coordination that would be required with boat owners and the USVI-Department of Planning and Natural Resources (USVI-DPNR). Likewise, we have not received a description of the proposed sites for relocating the moorings and boats, or an evaluation of the potential benthic habitat impacts of relocating the existing moorings and boats. Therefore, please provide this information in your response to this letter. In addition, please discuss the measures that would be implemented to avoid and minimize adverse effects to the present uses of the bay as a mooring area.

4. Navigation and recreation - Numerous communications received in response to our PN for your permit application expressed concerns regarding the potential impacts of the proposed marina to the existing navigation and recreation practices within Coral Harbor. Numerous commenters expressed that the proposed marina is too large for the needs of the existing boating community and that its large slips were designed to exclude the existing boaters with their small boats. Several commenters also indicated that the Kids and the Sea (KATS) boating education program for children would be forced to relocate and most likely not be able to continue operating within Coral Bay, because its current location would be occupied by the proposed marina. In addition, numerous commenters indicated that the removal of the existing dinghy dock and ramp, if not relocated or replaced, would create severe hardship to local boaters, as they would have no public access to the water during the construction of the proposed project. Numerous commenters also expressed that no information has been provided regarding the impacts to local boaters and the general public related to additional costs for using the dinghy docks and the ramp that would be constructed as part of the proposed marina after eliminating the existing public ones. Furthermore, commenters expressed that the construction of the proposed marina would limit and obstruct recreational boating and navigation within the bay, and would prevent public access to the shoreline. We request that you please address these concerns and discuss which measures would be implemented to prevent adverse effects on the existing navigation and recreational practices that take place within Coral Bay, as well as on the public's general right of navigation.

5. Water quality, flow and circulation - Please note that the Monitoring Plan for Water Quality submitted with your permit application is too conceptual. More precise information is needed regarding proposed location of monitoring stations, as well as thresholds and contingencies for environmental monitoring of benthic organisms and sediment loading. In addition, numerous commenters to the PN expressed concerns with the potential effects that the proposed marina could have on the water flow, circulation patterns and water quality within Coral Harbor, particularly considering that the proposed marina would be constructed in an area of limited natural water circulation. Changes in water circulation could lead to deterioration of the water quality and marine habitats within the Coral Bay. We request that you please provide an assessment of these potential adverse effects of the proposed project. Furthermore, please discuss the measures that would be implemented to adequately mitigate these adverse effects. In this regard, we ask that you please evaluate potential design modifications of the proposed docking structures, which could contribute to avoid and minimize these potential adverse effects. Furthermore, please keep our office informed of the status of your application for a U.S. Virgin Islands Territorial Pollutant Discharge Elimination System (TPDES) Permit from the USVI-DPNR for the proposed marina.

6. Property ownership and riparian rights - Several commenters to our PN expressed that the size and layout of the proposed marina would interfere with the ability of adjacent riparian property owners to access the navigable waters of Coral Bay. Please see the comments provided in this regard by SCB in their submittal dated January 24, 2016, and by Camille and Allegra Kean via e-mail dated January 25, 2016. We request that you please provide a response to these concerns, including an evaluation of the potential effects of the proposed marina on the riparian rights of adjacent property owners. The evaluation should consider potential design modifications or reductions in the size of the proposed docking structures, which could contribute to avoid and minimize these potential adverse effects.

7. Ambient and underwater noise - Numerous commenters to our PN expressed concerns with the potential noise impacts of the proposed project, particularly in relation to pile driving during the construction of the docking structures. The EAR submitted with the permit application indicates that one of the proposed measures to minimize noise impacts during project construction is to use vibratory hammers to drive piles wherever technically feasible. However, no evaluation of the technical feasibility of using vibratory hammers, such as geotechnical data, was provided. Therefore, the Corps cannot determine the extent in which this technique would be utilized and its actual effects on minimizing noise related impacts. In order to fully evaluate the potential effects of the proposed project regarding ambient and underwater noise levels, a more detailed description of the actual construction techniques that would be utilized must be provided, including appropriate technical data supporting its proposed use, their expected effects in terms of generation of ambient and underwater noise, and the specific proposed measures to minimize those potential adverse effects. Please include this information in your response to this letter. Please note that via e-mail dated

January 5, 2016 (copy provided in attached disk) NFMS - Protected Resources Division (NMFS-PRD) requested submittal of additional information necessary to evaluate the proposed project potential acoustic impacts to Federally protected species, in particular to sea turtles. Please provide the information requested by NMFS-PRD in your response to this letter. This information will be necessary to complete the required interagency consultation procedures pursuant to Section 7 of the ESA.

8. Historic and cultural resources - The Phase I archaeological survey submitted with your permit application did not include an evaluation of the potential historical or cultural significance of the Coral Harbor dock, which presently serves as a dinghy dock and would be removed as part of the proposed project. According to information submitted by CBCC in response to our PN, this dock was constructed and has been in use since at least 1896 and probably much earlier. Therefore, we request that you please submit an evaluation of the potential eligibility of this dock for inclusion in the National Register of Historic Places (NRHP). This information will be necessary to complete our consultation with the Virgin Islands State Historic Preservation Officer (VISHPO) and satisfy the requirements of Section 106 of the NHPA. Please note that numerous commenters recommended that the existing dinghy dock should be incorporated as part of the project and not demolished as currently proposed. In addition, the Cultural Resources Remote Sensing Survey completed to assess the potential presence of submerged cultural resources within the project areas indicates that the survey did not cover the entire in-water footprint of the proposed project, in particular the proposed dredging area. Please clarify why this area was not included in the survey, and why a survey of this area should not be required or necessary. In this regard, we also request that you provide us with copies of any communications you may have received from the VISHPO regarding the evaluation of the proposed project, particularly with respect to the archaeological survey reports submitted with the permit application.

D. Environmental Assessment (EA) vs Environmental Impact Statement (EIS) - Numerous commenters to our PN indicated that a Federal EIS should be required and prepared for your proposed project. As indicated above, the information being requested in the present letter will be necessary for the Corps to comply with the procedural and documentation requirements of NEPA. At this time the Corps has not determined that preparation of an EIS will be necessary to satisfy the NEPA requirements applicable to your permit application. However, we request that you please submit your response and/or rebuttal to the above recommendations that an EIS should be prepared, and discuss why you understand that an EIS should not be required.

E. Additional Federal Agencies Comments and Requirements

1. U.S. Environmental Protection Agency (EPA) - Via letter dated January 21, 2016 (copy provided in attached disk), EPA determined that the proposed project would

adversely impact aquatic resources of national importance, provided formal objections to the proposed project, and recommended the Corps to deny a permit for this project. Please review EPA's letter and provide adequate responses to the concerns detailed therein. This information will be necessary to complete our required interagency coordination and address the objections presented pursuant to Part IV 3(a) and 3(b) of the Section 404(q) Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army dated August 11, 1992.

2. National Marine Fisheries Service (NMFS) - Via e-mail dated January 5, 2016 (copy provided in attached disk), NMFS - Protected Resources Division (NMFS-PRD) requested submittal of information necessary for the Corps to request initiation and complete the required interagency consultation pursuant to Section 7 of the ESA for your proposed project. Please provide all the information requested by NMFS-PRD in your response to this letter.

3. U.S. Fish and Wildlife Service (FWS) - Via letter dated January 7, 2016, (copy provided in attached disk), FWS provided a series of recommendations to avoid, minimize and compensate the potential effects of the proposed marina on the resource and species under their purview. Please address and provide a response to all the comments presented by FWS in your response to this letter. This information will be necessary to satisfy the interagency consultation and coordination requirements of Section 7 of the ESA and the Fish and Wildlife Coordination Act (FWCA).

F. Coastal Zone Management and Water Quality Certifications or Permits - You are reminded that two necessary prerequisites to the issuance of a Department of the Army permit for your project are the issuance of a Water Quality Certification and a Coastal Zone Management Plan Consistency Certification by the U.S. Virgin Islands Department of Planning and Natural Resources (USVI-DPNR). Please keep our office informed of the status of your applications to the USVI-DPNR for the Coastal Zone Management permit and Water Quality Certificate for the proposed marina.

G. Cumulative Impacts - The Corps is very concerned with the potential cumulative impacts of the proposed marina on the aquatic environment of Coral Bay, Hurricane Hole, VINP, VICRNM, and Lagoon Point NNL, particularly considering that another marina (i.e., St. John Marina; DA Permit application number SAJ-2004-12518) is being proposed within Coral Bay, and that on October 19, 2015, the Corps issued a permit to the CBCC for the removal of derelict vessels within Coral Bay (DA Permit number SAJ-2015-02010). In order for the Corps to adequately consider the potential cumulative environmental impacts of your proposed project and comply with the corresponding requirements of NEPA, we request that you please provide information regarding your evaluation of potential past, present and foreseeable future environmental impacts of the proposed action in relation to the above referenced projects and any other existing or proposed projects, which have affected or could affect the aquatic environment at Coral Bay, Hurricane Hole, VINP, VICRNM, and Lagoon Point NNL.

H. Compensatory Mitigation Plan - Please be advised that the mitigation described in your permit application would not provide sufficient compensation for the potential impacts of the proposed project to the aquatic environment, particularly to waters of the U.S., mangroves and seagrasses. Once you demonstrate that the potential impacts of the proposed project to waters of the US and seagrasses have been avoided and minimized to the maximum extent possible and the extent of those impacts has been accurately documented, a compensatory mitigation plan to adequately offset those impacts must be developed and submitted to the Corps in accordance with the requirements of 33 CFR 332.

Your application will be held in abeyance for 30 days pending receipt of your response to this letter. If within the next 30 days from the date of this letter do not receive a written response from you, we will take final action on your Department of the Army permit application. Final action could include deactivation or denial of your permit application. Should the file be withdrawn, it will be retained for a period of one year.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the U.S., or the discharge of dredged or fill material into adjacent wetlands, without a DA permit would constitute a violation of Federal laws and subject you to possible enforcement action. Receipt of a permit from other agency does not obviate the requirement for obtaining a DA permit for the work described above prior to commencing work.

Thank you for your cooperation with our Regulatory Program. If you have any questions or concerns regarding this matter, please contact José A. Cedeño-Maldonado, Project Manager, at the letterhead address, by e-mail at jose.cedeno-maldonado@usace.army.mil, or by telephone at 787-729-6944.

Sincerely,

Sindulfo Castillo
Chief, Antilles Section

Enclosure (Digital Disk)

Copy Furnished: Roy Calhoun, T-Rex St. John, LLC, 45 Maple Street, Garden City, NY 11530