

PUBLIC LETTER TO THE UNITED STATES ARMY CORPS OF ENGINEERS

To: Sindulfo Castillo (Chief, Antilles Section, US Army Corps of Engineers)

cc: Jose Cedeño-Maldonado (USACE), Kelly Finch (USACE)

Subj: **Summer's End Group Marina, Coral Bay, St John, USVI - SAJ-2004-12518 (SP-JCM)**

Date: 1 February 2017

Dear Mr. Castillo,

On behalf of the one thousand eight hundred and thirty-five (1,835) signatories attached to this letter, I am respectfully requesting that the United States Army Corps of Engineers (USACE) abide by the terms of its October 22, 2015 and November 3, 2015 letters to the Summer's End Group (SEG) and deny the permit requested by SEG due to SEG's non-response to the issues and concerns transmitted to SEG in those letters. The continued pendency of the permit over the past fifteen months has been a significant burden on the people of Coral Bay and has created a disincentive for small scale business investment which is the heart of the economy of this community. We believe that SEG has had more than ample time to respond to the issues raised during the public comment periods, and their failure to do so is grounds for denial.

The basis for our request for permit denial is further detailed below:

1. In April 2014 the Summer's End Group filed their first permit application with USACE. This application was deemed incomplete and returned to the applicant with a request for additional information.
2. In September 2014 SEG submitted their second permit application to USACE. This application was put out for public comment in a USACE Public Notice dated January 7, 2015.
3. During January 2015, the public submitted approximately 13,000 letters, emails, and form letters in opposition to the proposed project. Additionally, five federal agencies (EPA, NOAA, FWS, NPS, NMFS) all submitted comments expressing extensive concerns, and two of the agencies requested outright denial of the USACE permit. In addition to these comments, the Coral Bay Community Council (CBCC) submitted comprehensive analysis, comments and reports from five experts covering a range of environmental and economic issues regarding the proposed SEG project.
4. On May 30, 2015, SEG submitted a third permit application to USACE. The changes from the second to the third application were minor: removal of a mooring field, and added description of upland development activities. There were no changes whatsoever in the marina design. The applicant did not supply a new or revised Environmental Assessment Report (EAR).
5. The third permit application was published in a USACE Public Notice dated July 9, 2015. The reasons given by USACE for a new public notice and comment period were (1) a change in lead

PUBLIC LETTER TO THE UNITED STATES ARMY CORPS OF ENGINEERS

agency from FWS to USACE for the species and habitat impacts (since FWS had rescinded grant funding from SEG in March 2015 due to the likelihood of adverse environmental impacts), and (2) USACE had, as a result of a computer failure, lost all of the comment letters from the public which had been submitted in January 2015.

6. During the second comment period, in August 2015, the public submitted over 20,000 letters, emails and form letters from individuals opposed to the SEG marina (inclusive of the letters submitted during the first comment period which were lost by the Corps). All five federal agencies again submitted extensive concerns, reiterating their comments from the earlier comment period. In addition, a petition with over 8,000 signatures in opposition to the SEG marina was submitted. CBCC again submitted analysis and expert testimony.
7. On October 3, 2015, in a meeting in Coral Bay, St John, the Corps reviewed the concerns raised by the community, and requested that a summary of these concerns be forwarded to USACE. When asked about the extent of public comment in support of the marina, USACE responded that they had received nine (9) letters in support, and over fifteen thousand (15,000) letters in opposition.
8. On October 22, 2015 the Corps sent a letter to SEG summarizing the public comments, federal agency comments, and the Corps' concerns. This letter identified an extensive list of issues to which the applicant needed to respond in order for the Corps to complete its environmental assessment. The Corps' requested a written response from SEG within 30 days.
9. On November 2 , 2015, the Summer's End Group requested additional time to respond to the list of issues and concerns identified by the Corps.
10. On November 3, 2015, the Corps wrote to SEG notifying the applicant that their application was being withdrawn from processing, and providing one year in which the applicant could respond to the Corps request for information. The letter, in relevant part, stated:

"We acknowledge receipt of your letter dated November 2, 2015, soliciting an extension of time to respond to our request for information dated October 22, 2015, regarding the above referenced permit application.

Please be advised that by action of this letter your application is being withdrawn from processing. The application will remain in abeyance pending receipt of the information requested on October 22, 2015. This action will not prejudice this or any future permit requests. Processing and evaluation of your permit application will continue as soon as we receive the information requested. Your file will be retained for a period of one year. Submittal of a new permit application could be required if your response is not received within this timeframe."

11. Fifteen months have now transpired since the Corps' letter of October 22, 2015. Based on the most recent request submitted under the Freedom of Information Act (FOIA), no response had

PUBLIC LETTER TO THE UNITED STATES ARMY CORPS OF ENGINEERS

been received by the Corps from SEG in the fifteen months following the letter providing them with a twelve month period for response.

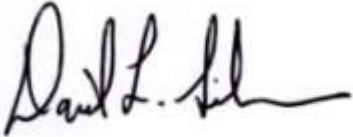
12. During these fifteen months additional factors have arisen which cast even greater doubt on the feasibility or viability of the SEG project. These include:
 - a. The central two land parcels, directly in the middle of the SEG project and at the head of their proposed main pier, have been purchased by an individual with no connection whatsoever with SEG. This individual has publicly stated that he has nothing to do with SEG, does not support their project, and would be negatively impacted by the construction proposed directly offshore of his property.
 - b. The Coral Bay Community Council (CBCC) has, with the assistance of federal funds, removed the majority of sunken and derelict vessels from Coral Bay Harbor. This has directly led to improvements in water quality and benthic habitat.
 - c. CBCC has completed a number of storm water management projects, reducing sediment transport into Coral Bay harbor. These projects, funded by federal grants, have resulted in a marked improvement in water clarity and overall water quality.
 - d. USACE has received a permit application for another marina in Coral Bay, at the north end of the harbor. This location, which has superior protection from wind and waves, was never seriously considered as an alternative by SEG.
 - e. Historically significant artifacts have been found on the seabed within the footprint of the SEG proposed marina. These artifacts, which had not previously been reported by SEG, call into question the sufficiency of the marine archaeological survey performed by the applicant's consultants in 2013, and which formed the basis for the VISHPO clearance letter.
13. Notwithstanding all of the above, the proponents of the SEG project, while not responding to Army Corps concerns for over fifteen months, continue to publicly claim that their project is progressing. We, who live in Coral Bay, have seen little or no evidence of the sort of marine studies that would be required to answer the concerns enumerated by USACE. However SEG's continued insistence that the project will "soon begin construction" has created a real disincentive to small scale business investment in Coral Bay. Small business is the lifeblood of the Coral Bay economy. When land owners refuse to offer long term leases, on the basis that the marina is "soon coming", then business owners are unable to justify investment.
14. The threat of a mega scale marina in Coral Bay has also been a disincentive to prospective home buyers. Uncertainty presents a risk to any investment, and the uncertainty surrounding the SEG marina is no exception.
15. Both federal regulations and Corps operating procedures require a timely action on permit applications. The Corps has generously provided one year for SEG to respond to the issues and concerns clearly identified, in writing, to the applicant. With no response provided by the applicant in fifteen months, the public is now entitled to closure on this matter. **We respectfully request that USACE formally deny the permit requested by SEG on the basis of SEG's failure to respond to the Corps' request for information in a timely manner.**

PUBLIC LETTER TO THE UNITED STATES ARMY CORPS OF ENGINEERS

16. Any future application for a similar marina in the same vicinity as the SEG proposal, with similar environmental impacts, must address all of the issues raised in the SEG comments before it is deemed complete and issued for public comment. To do otherwise would provide a “short circuit” around the valid public and agency comments.

We appreciate the time and attention which the Army Corps has expended on this permit application. We firmly believe that the community is entitled to a definitive action by the Corps at this point in time. Your response to this letter would be highly appreciated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Silverman". The signature is fluid and cursive, with a long horizontal stroke at the end.

David L Silverman, President, Save Coral Bay Inc.

on behalf of the attached list of 1,835 signatories