

October 24, 2019

Via e-mail to: nfrancis@legvi.org

The Hon. Novelle E. Francis, Jr.-Senate President
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
P.O. Box i690
St. Thomas, Virgin Islands 00804

RE: Legislature of the Virgin Islands Committee of the Whole
Major Coastal Zone Permit No. CZJ-04-14(W)
Status of Federal Permit Application No. SAJ-2004-12518 (SP-JCM)

Dear President Francis:

Please accept this letter as notice that this firm represents The Summer's End Group, LLC (SEG), in regard to Federal Application Number SAJ-2004-12518 (SP-JCM) (Application). This letter addresses the status of the Application and is provided to address the concerns that we understand have arisen in regard to its status.

SEG submitted the Application to the United States Army Corps of Engineers (Corps) seeking authorization to construct a marina in Coral Harbor on Saint John. The project requires a permit from the Corps pursuant to Section 10 of the Rivers and Harbors Act of 1899.

The Corps issued a Public Notice for the Application on July 9, 2015, and received comments from the United States Environmental Protection Agency (EPA), the United States Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the National Park Service, United States Coast Guard. In addition to the agency comments, the Corps received more than 15,000 communications, most of which were form letters solicited by the National Parks Conservation Association, Friends of the Virgin Islands National Park, Coral Bay Community Council, and Save Coral Bay. The Corps requested the Applicant respond to the concerns expressed in the public comments. The Applicant generated project modifications together with substantial data and analysis to address the concerns raised in the public notice process, including those expressed by the agencies and the comments from private organizations and individuals. Changes made to the project and additional study and analysis generated in response to these concerns are detailed below.

Upon submittal of the additional information, the Corps determined the Application was complete for regulatory evaluation and processing and initiated consultation with the FWS and NMFS. Consultation with FWS is complete and consultation with NMFS is ongoing.

Since Application was made, SEG has generated a substantial amount of additional information and analysis and documented a number of measures, including: modifying project design and construction methods and adopting operational controls that will avoid impacts where possible and minimize impacts that are unavoidable, which include, but are not limited to:

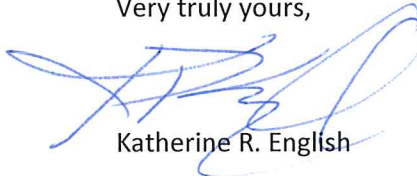
- Analyzing 10 alternative locations and numerous project layout designs to find the most practicable alternative with the least impact;
- Removing the request to dredge a portion of the Harbor;
- Extensive geotechnical study and analysis to revise piling installation and minimize the acoustic impact of installation;
- Developing a circulation model based on the geotechnical data to determine how to protect and improve water quality;
- Comprehensive benthic assessments in the harbor;
- Modifying proposed project infrastructure to minimize the piles needed and using grated decking on the proposed docking structures, finger piers and walkways to protect sea grasses from shading;
- Modifying the layout of the marina to position slips in deeper waters and positioning larger vessels to avoid the need for additional infrastructure;
- Providing pump out and waste collection facilities in the marina design and operations;
- Implementing a boaters education program and a Clean Marina Plan as part of the operations of the marina to protect water quality and the environment;
- Committing to use erosion and sediment control measures during upland construction and floating silt curtains during in-water work to protect water quality and complying with the Multi Sector General Permit requirements for stormwater management;
- Committing to Water Quality and Environmental Monitoring plans as part of marina operations;
- Complying with National Marine Fisheries Service's (NMFS) Sea Turtle and Smalltooth Sawfish Construction Conditions, Vessel Strike Avoidance Measures and Reporting for Mariners, and U.S. Fish and Wildlife Service (FWS) Standard Manatee Conditions for In-Water Work;

- Implementing a Compensatory Mitigation Plan that includes, but is not limited to, the restoration and maintenance of surface water management systems paid for with public funds that, when properly maintained, help restore and protect water quality within the Harbor; and
- Completion of expanded environmental studies in response to NMFS.

Once consultation with NMFS is complete and a Coastal Zone Permit has been issued, the Corps will draft the record of decision in regard to the Application. Throughout the process, SEG has been cooperative, collaborative and compliant with the Corps and the consulting agencies requests and responsive to the concerns raised during the public notice process. Successful completion of consultation with NMFS will precipitate a favorable decision from the Corps in response to the Application, resulting in a permit authorizing the project.

The Corps cannot issue a decision in regard to the Application until a Coastal Zone Permit is issued by the Virgin Islands. The Virgin Islands' authorization of the Applicant's use of submerged lands within Coral Harbor through its permitting process is a condition precedent to the Corps' issuance of a decision on the Application pending before it. Therefore, we respectfully request the approval of the submerged land lease identified as Major Coastal Zone Permit No. CZJ-04-014(W).

Very truly yours,



Katherine R. English

KRE:db

cc: Client