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AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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FORMED IN PENNSYLVANIA

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March 24, 2020

Via Electronic Mail

Kelly Egan, Project Manager
(Kelly.A.Egan@usace.army.mil)
Regulatory Division
U.S. Army Corps of Engineers
Jacksonville District Palm Beach Gardens Permits Section
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410



Re: Summer's End Group, LLC – Comments on Applicant Response to National Marine Fisheries Service Request for Additional Information

Dear Ms. Egan,

I am writing on behalf of nineteen (19) individuals, all residents or property owners in Coral Bay, St. John, who oppose the permitting, construction and operation of a private, 144 slip commercial mega yacht marina proposed to be located in Coral Bay, St. John, U.S. Virgin Islands (the “Proposed Project”). As you are aware, in April 2014, the applicant, the Summer’s End Group LLC (“SEG”), submitted an application (the “Application”) (as amended beginning in 2015) for the Proposed Project pursuant to either or both of Section 404 of the Federal Clean Water Act and Section 10 of the Federal Rivers and Harbors Act. The Army Corps permit application number for the Proposed Project is **SAJ-2004-12518 (SP-JCM)**.

My clients have reviewed documents submitted by SEG to the National Marine Fisheries Service (“NMFS”) in December 2019. These documents purported to be responses to a request for additional information sent by NMFS to the Corps (and to SEG) in October 2018 following the Corps consultation request to NMFS under the Magnuson-Stevens Fishery Conservation and Management Act and the Endangered Species Act in July 2018.

Based on the extensive review performed by my clients, together with their review of relevant scientific literature and consultation with subject-matter experts, my clients have found that the SEG response is inaccurate, legally deficient, and misstates the impacts of the Proposed Project on protected marine resources. The principal findings supporting this statement are as follows:



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1. SEG failed to cite any published scientific literature supporting their conclusions, nor did they cite highly relevant scientific literature contradicting their conclusions.
2. The model proposed by SEG for determining the extent of impacts is clearly invalid because it does not agree with field observations cited elsewhere by SEG. The SEG model has not been calibrated thereby invalidating its results.
3. Insufficient data was supplied in the “Geophysical Survey” to validate the conclusions reached by SEG regarding pile driving. The survey did not even cover the entire extent of the Proposed Project.
4. For these and other reasons cited in the report, the conclusions reached by SEG regarding impacts to protected resources, including Essential Fish Habitat and ESA-listed species, is inaccurate and substantially understates the probable impacts.

I respectfully request that the comments submitted herewith by my clients be fully considered in the Corps’ and the NMFS review of the documents submitted by SEG to NMFS. I further request that these comments be made part of the Corp’s administrative record for the SEG Application.

Sincerely,



Robert D. Fox
For MANKO, GOLD, KATCHER & FOX, LLP

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