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

REPLY TO ATTENTION OF

January 26, 2018

Regulatory Division
South Permits Branch
Antilles Section
SAJ-2004-12518 (SP-JCM)

Katherine R. English
Pavese Law Firm
P.O. Box 1507
Fort Myers, FL 33902

Dear Ms. English:

Reference is made to the Department of the Army (DA) permit application, submitted on June 10, 2015, on behalf of The Summer's End Group, LLC for the proposed development of the St. John Marina Yacht Club. The project would be located at Coral Harbor, Estate Carolina, Coral Bay, St. John, U.S. Virgin Islands. Please refer to number SAJ-2004-12518 (SP-JCM) in future correspondence regarding this case.

On December 18, 2017, we received your response to our latest request for information dated October 26, 2017, regarding the referenced application. On October 22, 2015, we had sent a previous request for information, for which an incomplete response was received on August 24, 2017. We hereby provide our comments regarding our review of the information included in your most recent response.

Please be advised that your response did not fully address all the items included in our information requests. Below we describe in more detail the remaining information that you must provide for us to be able to complete our required interagency coordination/consultation of your proposal and make a final decision regarding the permit application.

1. Exposure to prevailing and storm winds and waves: Your response included a Marina Site Suitability Analysis, dated December 9, 2017, which was completed by Water Environmental Consultants for the proposed project site. The results of this analysis indicate that the estimated 1-year return wave heights at the project site would exceed established industry design guidelines for acceptable berthing operational conditions. The analysis also indicates that to ensure the operational criteria are not exceeded, additional infrastructure, such as a floating wave attenuator, would be required. In addition, the analysis indicates that the probability of a 50-year wave event (which could cause damage and/or failure of the marina) impacting the project site at some point over a 25-year period is 40%; and that to mitigate the effects of such event,

additional coastal infrastructure, such as a rubble mound breakwater, would be required. Furthermore, the analysis report indicates that a higher level of confidence in its findings would require more thorough analysis of the site supported by in-situ measurement data, all of which was excluded from the analysis completed. Notwithstanding, your response did not discuss whether additional infrastructure or modifications would be incorporated into the proposed project design to address the findings of the study, or whether additional more detailed studies would be conducted in this regard. As expressed in our previous communications, including our original request for information, the U.S. Army Corps of Engineers (Corps) must consider all components of a single and complete project during the evaluation of a permit application. We are concerned with the possibility that if built as currently proposed, substantial project modifications with additional impacts to aquatic resources would be required in the near future. Therefore, please clarify how the proposed project design would avoid the need of such modifications or describe which modifications should be incorporated into the project design currently under evaluation to address the findings of the Marina Site Suitability Analysis.

2. Impacts to seagrass and benthic habitats: Your response indicated that due to the highly turbid conditions that continue to prevail within Coral Harbor after the passage of Hurricanes Irma and María, it has not been possible to resurvey the seagrass and benthic habitats within the project areas. Please be advised, that as stated in our previous communications, completion of an updated benthic survey is necessary to ensure that recent changes in the benthic composition of the project area are captured and that the potential for its natural recovery is considered in assessing the potential impacts of the proposed marina and the adequacy of the proposed compensatory mitigation.

3. Existing mooring buoys and moored boats: Your response included a statement from the Commissioner of the U.S. Virgin Islands Department of Planning and Natural Resources (DPNR), affirming that the DPNR would facilitate the relocation of the mooring buoys currently located within the footprint of the proposed marina. However, no additional information regarding the proposed relocation site, the benthic conditions therein, or the potential impacts of the buoys' relocation on marine habitats and resources was provided. Also, your response acknowledges that completing a post-hurricane assessment would be necessary to further define the proposed plan for the relocation of the existing buoys. As stated in our previous communications, this information is necessary to fully assess the potential effects of the entire single and complete proposed project on the marine environment and adequately define the corresponding mitigation and compensatory requirements.

4. Water circulation: Your response did not include the water circulation modeling study requested by the Corps for the proposed project site. On the other hand, your response did include additional analysis and discussion on the water circulation and flushing processes within Coral Bay and Coral Harbor. The information provided

confirms that due to the very limited flushing and mixing capacity of Coral Bay, the proposed marina would result in long term suspension, increase and/or accumulation of sediments, turbidity, nutrients, hydrocarbons and other pollutants within the bay. The Corps is very concerned with the potential indirect and cumulative adverse effects that this situation could impose on the water quality and the sensitive marine habitats of Coral Harbor and Coral Bay. Please discuss, which additional project modifications, or avoidance and minimization measures would be implemented to address those potential impacts.

5. Ambient and underwater noise: Your response did not provide the geotechnical data or studies requested by the Corps for the proposed project site. Instead, your response referenced a scientific article published on 2005, which analyzed sediment accumulation patterns within Coral Bay. The article described that ten-foot long vibra-cores were used to collect sediment samples within Coral Bay. Based on that article you interpreted that the depth of the sediments at the bottom of Coral Bay was at least ten feet and that a vibra-hammer could be used to installed the piles for the proposed project through that sediment layer. You response further indicated that 200 impact hammer strikes would be required to drive each propose pile through the material underlying the sediment layer. We reviewed the referenced article and disagree with your interpretation. Even though ten-foot long vibra-cores were used, the article does not indicate the total depth of the sediment layer found at different locations throughout the bay. In fact, the actual core profiles presented in the article indicate that the deepest sediment sample was taken at a depth of 2.2 m (7.2 ft.) from the bottom of the bay. On the other hand, you did not provide any data or discussion to support the estimate of 200 impact hammer strikes per pile. Such calculation should consider the characteristics of the underlying material, the type of piles, as well as the depth needed to drive the piles. Based on data from previous projects authorized by our office, piles used in berthing structures for typical recreational boats between 15ft. to 45 ft. in length have required around 200 impact hammer strikes. We would expect piles for mega yachts up to 140 ft. in length to require deeper driving depths, with more impact hammer strikes required per pile. We again request your submittal of the geotechnical studies and pile installation method analysis described in our previous letter. Please provide revised calculations of the number of strikes per pile, piles to be installed per day, and total number of days required to complete the installation of all proposed piles. If the geotechnical studies are not conducted, the revised estimate should assume that a vibra-hammer would not be used and should also discuss the basis for estimated the driving depth needed for the piles. As previously stated, this information is necessary to assess the potential underwater acoustic impacts of the construction of the proposed project on protected marine fauna.

6. Cumulative impacts: Your response did not sufficiently address our previous requests regarding cumulative impacts. We again recommend that you follow the enclosed template, to format the information and analysis required to adequately

complete the cumulative impacts analysis for your proposed marina and satisfy the corresponding requirements under the National Environmental Policy Act (NEPA).

7. Archaeology and historic resources: Your response included copy of an email message from the Virgin Islands State Historic Preservation Office (SHPO), which provided recommendations for the protection of a shipwreck found in the vicinity of the proposed project. However, your response did not include copy of a drawing referenced in the email message, which depicted the specific project modifications recommended by the SHPO. Also, your response did not include a final communication from the SHPO confirming their concurrence with the current proposed project design. Therefore, we cannot confirm whether your proposed project has indeed satisfied SHPO's recommendations. We will continue our interagency consultation with SHPO pursuant to Section 106 of the National Historic Preservation Act. However, to facilitate this consultation, we request your submittal of the complete e-mail message provided in your response, including the referenced drawing, and/or preferably a posterior message from the SHPO indicating their concurrence with the final project design.

8. Compensatory Mitigation Plan: The Compensatory Mitigation Plan submitted with your response acknowledges that it has not been possible to complete a re-survey of the benthic conditions within the project site after Hurricanes Irma and Maria. Therefore, as stated above, we cannot ensure that recent changes in the benthic composition of the project area are captured and that the potential for its natural recovery is considered in assessing the potential impacts of the proposed marina and the viability and adequacy of the proposed compensatory mitigation, including the proposed marine debris removal, seagrass transplant, coral restoration, and mangrove planting. Without such information, we will not be able to complete the evaluation of your proposed project. Also, the Compensatory Mitigation Plan should indicate who would be responsible for the long term maintenance of the informational buoys to be deployed. In addition, the plan should include a location map and a figure depicting the proposed design for the proposed mangrove planting. Furthermore, in order to assess its viability and effects, the plan should include a description of the type and an estimate the volume of the marine debris that would be removed from the bottom of Coral Bay, as well as a description of the number and species of corals colonies that would be restored or repaired. This should also be based on a re-survey of the benthic conditions within the bay to ensure the effects of Hurricanes Irma and Maria are taken into account. Please be advised that the proposed implementation of a fee for users of the marina, which would be donated to marine conservation research cannot be accepted as mitigation for the project. It would be impracticable for us to enforce this condition or assess its effect in compensating for project related impacts to marine resources. Moreover, the mitigation plan should describe which specific watershed storm water management improvements or repairs would be conducted. Finally, we request that you confirm the total amount of the performance bond for the proposed mitigation. Please submit a revised Compensatory Mitigation Plan addressing the above in accordance with the requirements of 33 CFR 332.4(c).

Please be advised that based on current site conditions and the most recent information you have provided, my staff has preliminarily determined that your proposal may be contrary to the Public Interest. Pursuant to Corps Regulations at 33 CFR 320.4(a)(1) your permit application would be denied if ultimately found to be contrary to the Public Interest. Please be advised that this is not our final determination concerning compliance with the Public Interest, or notice of intent thereof. This letter does, however, represent the preliminary staff review of the proposed work and/or structures. We are providing this information at the present stage of the process to allow you the opportunity to modify your project plan to reflect an alternative that would have less impact on the aquatic resources, fully assess the further commitment of resources for design dependent on permit issuance, and add to our record whatever additional information you feel is relevant to our review process.

Further evaluation of your application will be held in abeyance for 30 days pending receipt of your response. If no response is received within that timeframe, we will take final action on your DA 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 United States, 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.

Thanks for your support to 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,

CASTILLO.SINDULFO.1182884851
Digitally signed by CASTILLO.SINDULFO.1182884851
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=CASTILLO.SINDULFO.1182884851
Date: 2018.01.26 13:17:11 -04'00'

Sindulfo Castillo
Chief, Antilles Section

Enclosure

Copy Furnished: Chaliese Summers, The Summer's End Group, LLC, 5000 Estate Enighed, Suite 63, St. John, US Virgin Islands 00830

Enclosure 1

A. Cumulative and Secondary Impacts – *(40 CFR 230.11(g) and 40 CFR 1508.7, RGL 84-9) Cumulative impacts result from the incremental environmental impact of an action when added to all other past, present, and reasonably foreseeable future actions. They can result from individually minor but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider both direct and indirect, or secondary, impacts. Indirect impacts result from actions that occur later in time or are farther removed in distance from the original action, but still reasonably foreseeable.*

1. Geographic scope: Indicate the name of the watershed or other appropriate geographic area, and rationale for selection

2. Temporal scope: Enter timeframe or choose from the list

Explain the selected timeframe: provided explanation for selected timeframe

3. Historical conditions of the area subject to this analysis: describe the historic condtions of the assessment area at the beginning of the time frame selected

4. Major changes to the area and description of current condition: describe the environmental history of the area and define the environmental baseline against which to analyze the proposed and reasonably foreseeable future impacts

5. Anticipated cumulative and secondary/indirect impacts (environmental consequences) of the proposed action: provide discussion here

6. Reasonably foreseeable future actions: provide discussion here

7. Effect of the proposed mitigation, including avoidance and minimization, on reducing the project's contribution to cumulative effects in the region: provide discussion here

8. Conclusions: provide discussion here