

LAW OFFICE OF JOHN H. BENHAM, P.C.

ATTORNEYS AT LAW

P.O. BOX 11720

ST. THOMAS, VIRGIN ISLANDS 00801-4720

Telephone: (340) 244-7626 Fax: (800) 948-1947

www.benhamlawvi.com

JOHN H. BENHAM

E-MAIL

john@benhamlawvi.com

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**RCVD SEN. PRESIDENT
AUG 22 '25 AM 11:32**

Honorable Milton E. Potter
President, 36th Legislature
St. Thomas, Virgin Islands

Re: The Summer's End Group, LLC
Coastal Zone Management Permits
Nos. CZJ-04-14(W) and CZJ-03-14(L)

Dear Senate President Potter:

We have prepared this letter to provide an update on the current status of the United States Army Corps of Engineers' (hereinafter the "Corps") permitting process for the The Summers End Group, LLC ("SEG") marina on St. John, a summary of the final steps that need to be completed before the Corps permit is issued, and the timeline for completion of those final steps.

The federal permitting process is rigorous, comprehensive and time-consuming. Over the past year, SEG has worked extensively with the Corps, the National Marine Fisheries Service ("NMFS") and the Environmental Protection Agency ("EPA") to address all the questions and concerns that were raised by those agencies in the summer and fall of 2024 as part of the Corps permitting process. As a result of those collaborative discussions, SEG has agreed to an additional mitigation package involving mangrove restoration with a total value of approximately \$4,445,000. SEG believes that this additional mitigation fully addresses all the issues that have been raised by federal agencies in the permitting process.

Upon SEG's commitment to performing additional mitigation, the Corps prepared a comprehensive Endangered Species Act consultation letter to NMFS Protected Resource Division ("PRD"), articulating its conclusion that, as mitigated, the Summers End project is not likely to adversely affect any endangered or threatened species, nor will it adversely modify critical habitat. The Corps' evaluation, which was transmitted to NMFS PRD on August 11, 2025 is attached hereto as Attachment 1. Under applicable regulations, NMFS PRD has a maximum of 60 days to respond to the Corps' consultation letter. *50 C.F.R. § 402.13(c)(2)*. We are hopeful that, in light of the extensive coordination that has already taken place in advance of the initiation of consultation, NMFS PRD will respond more quickly than the 60-day timeline required by the regulations.

The Corps must also coordinate with EPA and NMFS Habitat Conservation Division as part of its decision on the Summers End permit application. That coordination is conducted in accordance

with a Memorandum of Agreement ("MOA") between the agencies that was entered into pursuant to section 404(q) of the Clean Water Act, 33 U.S.C. § 1344(q). Attached hereto as Attachment 2 is a fact sheet that explains that coordination and resolution process. The Corps is in the process of responding to both EPA and the NMFS Habitat Conservation Division as part of the coordination and resolution process.

Pursuant to the process articulated in Part IV 3(b) of the 404(q) coordination and resolution MOA, in August 2024 EPA provided the Corps with a letter explaining its determination that the project had unacceptable impacts on aquatic resources. In accordance with the procedures in that MOA, the Corps, in coordination with EPA and NMFS, worked with SEG to address those concerns. That is part of the process that led to the significant addition to the mangrove mitigation discussed above. The Corps is now working on a letter to EPA, pursuant to Part IV 3(c) of the MOA, which explains how the additional mitigation that has now been incorporated into the project addresses the concerns raised by EPA in its August 2024 letter. Given the extensive coordination with the agencies over the past year, we are confident that EPA will determine that all its concerns have been adequately addressed.

The Corps has indicated in our discussions that it has established a goal of the end of October for the issuance of its permit decision, just two months from now. While the Corps cannot guarantee that timeline, given the role NMFS and EPA play in the process, we believe that expedited timeline, which is attributable to the hard work that SEG and the federal agencies have put into this process over the past year, is absolutely achievable.

Based on the foregoing, we anticipate a favorable permit decision from the Corps, with no objections from NMFS or EPA, in the next 60 days. Please do not hesitate to contact me if you have any questions on this matter.

Sincerely,



John H. Benham