

**Date:** August 15, 2025

**To:**

The Honorable Milton E. Potter  
President  
36<sup>th</sup> Legislature of the Virgin Islands  
St. Thomas, USVI 00802

**Re:** Opposition to Modification and Extension of Consolidated Major CZM Permit for the Summer's End Group, LLC – Upholding the Virgin Islands Code and CZM Process

Dear Senate President Potter,

We write to formally urge the Legislative branch to **reject any approval for the modification and extension request of the CZM Consolidated Permit Nos. CZJ-04-14(W) & CZJ-03-14(L), issued to the Summer's End Group, LLC (hereinafter “ the Permittee”)** unless and until full compliance with the established permitting and Coastal Zone Management (CZM) procedures, as outlined in the Virgin Islands Code, has been demonstrated.

**Key Facts:**

This permit was executed as follows: signed by Mr. Andrew Penn, Chairman of the St. John CZM Committee, on December 16, 2019; by Ms. Chaliесе Summers, Principal of the Summer's End Group, on December 17, 2019; by Governor Albert Bryan, Jr., on December 18, 2019; and ratified by the Virgin Islands Legislature on December 15, 2020. Legislative ratification triggered the **Effective Date** in December 2020. More than four (4) years have now elapsed—well beyond the statutory and permit-based timeframes—rendering the permit null and void.

**Permit Obligations & Non-Compliance**

The Consolidated General Conditions, Paragraph F, clearly state:

“Any and all development approved by this Coastal Zone Permit shall begin within twelve (12) months from the date this permit becomes effective and shall be continuous until completion. Failure to perform at least fifty (50%) percent of the work within such period and continuously construct thereafter... shall cause the permit to terminate automatically and render it null and void, unless the Permittee requests an extension in writing and demonstrates to the satisfaction of the Committee that good cause exists for granting such extension.”

The **Consolidated Special Conditions** further require that:

“All applicable Territorial and Federal permits, or other necessary approvals, must be obtained prior to the commencement of development activities.”

It must be emphasized that the **Special Conditions do not supersede the General Conditions**. Both must be read and enforced together. **Compliance with both is mandatory for the permit to remain valid**. To date, **the Permittee has failed to meet these obligations within the required timeframe** and never requested an extension.

Pursuant to **12 V.I.R.R. § 910-10(a)(4)**, any extension request for a major CZM permit must be publicly noticed to allow written public comment. No such request has been made or noticed. Proceeding without such reauthorization violates both statute and the public's right to participate.

Therefore, any attempt to proceed without reauthorization or a formally approved extension is a direct violation of the public right to provide comments, the Virgin Islands Code, and the Virgin Islands Rules and Regulations.

If the Permittee wishes to proceed, it must **submit a formal written request for an extension** to the St. John CZM Committee, with clear and convincing evidence that **good cause exists** to justify the extension. Such a request must be evaluated on its merits, through the appropriate legal framework.

### **Modification Request & Waiver of BLUA rights**

Under **12 V.I.R.R. § 910-14**, an application for modification of a major CZM permit is treated as a new permit application unless the Commissioner determines that the change does not substantially alter the project's scope, nature, or characteristics. If the STJ CZM Committee denies such a modification or extension, the Permittee ordinarily may appeal to the Board of Land Use Appeals (BLUA) and, subsequently, to the courts. However, **if the Legislative Branch approves the modification or extension request, the Permittee waives the right to appeal to BLUA**. This is a significant procedural right, and the Permittee should be required to acknowledge this waiver in writing before any legislative action is taken.

### **Economic Accountability**

Given the substantial scale of the proposed project, the Legislative Branch should require **clear proof of secured investment funds** sufficient to complete the development. This measure ensures that speculative or underfunded proposals do not obstruct the lawful use of valuable coastal resources, compromise public trust, or stall economic growth. The economic feasibility of any such project is integral to the permitting process and must be verified prior to legislative consideration.

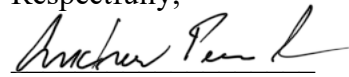
### **Preserving Legal Integrity & Public Trust**

The Permittee must be held to the same legal standard as any other applicant. **The Department of Planning and Natural Resources – Division of Coastal Zone Management** must be empowered to uphold the law without interference, ensuring lawful, transparent, and accountable development.

Any attempt to **circumvent, undermine, or otherwise invalidate the authority of the CZM process sets a harmful precedent**, eroding public trust and weakening the integrity of environmental and land-use governance in the Virgin Islands. Upholding the CZM process is essential not only to preserve the legal order but also to protect the ecological and cultural heritage of our islands for current and future generations.

We therefore urge the Legislative branches to **affirm their commitment to lawful governance** by supporting the St. John Committee, the CZM Commission and DPNR-CZM in enforcing the Virgin Islands Code and **rejecting any modification or extension request** by Summer's End Group, LLC.

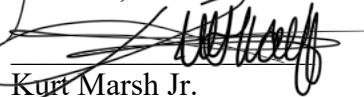
Respectfully,




Andrew Penn, Sr.  
Chairman, STJ Committee



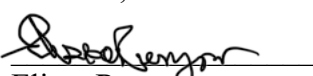
Brion Morrisette  
Member, STJ Committee



Kurt Marsh Jr.  
Member, STJ Committee



Rafe H. Boulon  
Member, STJ Committee



Elissa Runyon.  
Member, STJ Committee

## **ADDENDUM**

This Addendum is submitted in support of the St. John CZM Committee and/ or CZM Commission recommendation to **deny any approval for modification or extension request by Summer's End Group, LLC** (hereinafter "the Permittee") unless and until full compliance with the Virgin Islands Code and the Coastal Zone Management (CZM) permitting process has been achieved.

### **I. No Development Has Commenced**

To date, no physical development or construction activity has been initiated at the project site. In the absence of any commenced work within the required timeframe, there is no vested right to proceed under the expired permit. Continuation under these circumstances would directly contravene the Consolidated General Conditions and the CZM regulatory framework.

### **II. Non-Compliance with Submerged and Filled Land Permit Obligations**

The Permittee is in material violation of its Submerged and Filled Land Lease Agreement due to:

- **Deviation from the authorized scope of work** without securing prior approval; and
- **Failure to remit required occupancy fees** for the use of submerged and filled public trust lands.

These violations alone warrant denial of any continuation request until fully corrected.

### **III. Failure to Meet Consolidated General Conditions**

As previously stated, the **Consolidated Special Conditions** do not override the **Consolidated General Conditions**; compliance with both is mandatory and concurrent. The General Conditions expressly require the Permittee to obtain **all necessary Territorial and Federal approvals** within twelve (12) months of the permit's effective date. The Permittee has failed to satisfy this requirement, resulting in the permit being rendered **null and void by operation of law**.

It must be emphasized that the **approval of a federal permit does not guarantee the issuance or validity of a local CZM permit**. Federal permits are issued under separate jurisdiction and are not contingent upon prior or concurrent approval of local permits. Conversely, the validity of a local CZM permit remains subject to strict compliance with all applicable Virgin Islands laws, regulations, and permit conditions—regardless of any federal agency's independent action.

### **IV. Environmental and Public Trust Considerations**

Proceeding under the current non-compliant conditions would:

- Risk harm to **sensitive marine ecosystems** within the Coral Bay watershed, including coral reefs and seagrass beds;
- **Undermine the integrity** of the CZM process;
- Set a **harmful precedent** that encourages circumvention of environmental laws; and
- Erode **public trust** in lawful and transparent governance.
- 

#### **V. Required Corrective Actions Before Any Consideration of Continuation**

The Permittee's most likely lawful course of action is to **submit a new formal application** for a Coastal Zone Management permit. At a minimum, this application must include:

1. **Payment of all past due occupancy fees;**
2. An **updated Environmental Assessment Report (EAR)** accurately reflecting present environmental conditions, given that the existing EAR is more than ten years old; and
3. A **written explanation** addressing:
  - a. The failure to request a timely extension; and
  - b. The failure to pursue building permits after CZM ratification.

Only after these requirements are met, reviewed, and approved under the Virgin Islands Code should the project be considered for continuation.