United States Department of the Interior

FISH AND WILDLIFE SERVICE
Caribbean Ecological Services
Field Office
P.O. Box 491
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FEB 28 2017

2017 MAR -2 PM 3:41
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In Reply Refer To:
FWS/R4/CESFO/72-005-034

Ms. Carmen R. Guerrero-Pérez
Director
U.S. Environmental Protection Agency
Caribbean Environmental Protection Division
City View Plaza II, Suite 7000
Guaynabo, PR 00968-8069

Re: Christopher Columbus Landing
NPDES, Aguadilla

Dear Ms. Guerrero:

We recently learned that the Environmental Protection Agency (EPA) granted a permit to the Christopher Columbus Landing project under the 2012 National Pollutant Discharge Elimination System (NPDES) General Permit. We understand that this permit was issued based on a Notice of Intent (NOI) for Storm Water Discharges submitted by the Caribbean Management Group on May 29, 2013, to obtain coverage under an NPDES General Permit for the construction activities for the project. We have reviewed copy of this NOI form, and are hereby providing comments under the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 United States Code 1531 *et seq.*), and in accordance with the Fish and Wildlife Coordination Act (47 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*).

According to the NOI, the applicant determined that the proposed project qualify under the Criterion A of the Appendix D regarding endangered species and their habitats. Criterion A establishes that "*No federally-listed threatened or endangered species or their designated critical habitats are likely to occur in the site's action area*". The applicant alleged its Criterion A decision on prior communications with the U.S. Fish and Wildlife Service. However, we do not have records of any communication from the applicant to this office regarding the NOI, nor did we find any communication from the Service to the applicant.

In 1994, the Service reviewed the Draft Environmental Impact Statement (DEIS) for a proposed tourist project known as Christopher Columbus Landing in Aguadilla, Puerto Rico. At that time, via correspondence dated October 24, 1994, addressed to the Puerto Rican Planning Board (Enclosed) we determined that the proposed project site harbors

suitable habitat for the hawksbill sea turtle (*Eretmochelys imbricata)* and the area proposed for access road at that time harbors suitable habitat for the Puerto Rican boa (*Epicrates inornatus*).

Based on the review of the information provided and available in our files, we do not agree with the Criterion A determination used by the applicant for this project. Therefore, since the the General Permit NPDES was issued based on questionable information provided by the applicant, we believe that the EPA may not be in compliance with Section 7 of the ESA. We believe the EPA should request the applicant to provide the alleged communications between them and the USFWS. Therefore, the EPA will have to initiate consultation under Section 7 of the ESA.

However, we have learned through the news that the construction of the project started. It is the Service's policy to not conduct after-the-fact Section 7 consultations. Under this scenario portions of the project already built are no covered under the ESA, and therefore we recommend the EPA to initiate consultation for any section of the project not affected by the current construction activities. A conservation plan to address possible effects to listed species should be included with the consultation package.

We appreciate your interest in protecting endangered species and their habitats. It is the Service's mission to work with others to conserve, protect, and enhance marine life, wildlife, plants and their habitats for the continuing benefit of our people. Please do not hesitate to contact Marelisa Rivera at 787-851-7297, extension 206, should you have any questions concerning our comments.

Sincerely yours,

Edwin E. Muñiz
Field Supervisor

Agcs/ mtr

cc:
DNER, San Juan
NMFS, Boquerón
PRPB, San Juan
EQB, San Juan
OGPe, San Juan
Municipality of Aguadilla
Jaime López, EPA