DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
ANTILLES OFFICE
400 FERNANDEZ JUNCOS AVENUE
SAN JUAN, PUERTO RICO 00901-3299

JUL - 8 2014

REPLY TO
ATTENTION OF

June 30, 2014

Regulatory Division
North Permits Branch
Antilles Permits Section
SAJ-1994-00321(SP-DCM)
Modification-6

Mr. Adrián Mercado-Jiménez
Marina de Ponce, Inc.
P.O. Box 9023980
San Juan, Puerto Rico 00902-3980

Dear Mr. Mercado-Jiménez:

The U.S. Army Corps of Engineers (Corps) has completed the review and evaluation of your modification request, received on April 4, 2013, in which you asked to extend the expiration date of Department of the Army permit number SAJ-1994-00321(SP-DCM), issued on April 5, 1995, as amended. The project site is located west of the Matilde River mouth, adjacent to the Ponce Wastewater Treatment Plant at Canas Ward, Municipality of Ponce, Puerto Rico.

The proposed modification is to extend the construction window of the authorized project, to allow completion of the Marina de Ponce facilities. According to your modification request letter, approximately 80% of the authorized activities have been completed. Information in our files indicates that the required compensatory mitigation work for this project has also been completed.

Your permit modification request was coordinated with pertinent resource agencies, in compliance with current Corps regulations and responsibilities under the Endangered Species (ESA) Act. The impact of your proposal on navigation and the environment has been reviewed and found to be insignificant. Based on our review and evaluation of your modification request, and the results of our coordination with the resource agencies, we hereby extend the expiration date of the referenced permit. The new expiration date for permit number SAJ-1994-00321 (SP-DCM) is **January 6, 2016**.

In addition to the above, the permit special condition below is hereby modified as follows:

Special Condition 9: The Permittee agrees to implement the following conservation measures in order to minimize potential impacts of the proposed project to the Antillean manatee:

6

a. Prior to commencement of the operation of Marina de Ponce, the Permittee shall establish no-wake and/or no-entry zones in the surroundings and/or at the marina facility. This shall be made in coordination with the Department of Natural and Environmental Resources.

b. The Permittee shall delineate a 300 feet entrance/exit channel outbound the marina breakwater to access the marina facility. The applicant shall place three pairs of marine buoys, 100 feet apart of each other. The buoys must be placed in compliance with the U.S. Coast Guard and any other pertinent agency's regulations. The buoys shall be installed prior to commencement of the operation of the marina facility, and shall be maintained in good quality for the life of the marina facility. The applicant shall notify the National Ocean Service and this office in writing, at least two weeks before begin work and upon completion of the activity authorized by this permit. Your notification of completion must include a drawing, which certifies the location and configuration of the completed activity (a certified permit drawing may be used). Notification to NOS will be sent to the following address: National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Spring, Maryland 20910-3282.

c. The Permittee shall include with the slips purchase and sale, or rental agreements a copy of the permit and all modifications. The Permittee shall also include information concerning the presence of manatees in the area, identifying the manatee aggregation areas. The information shall indicate the need to reduce the speed in near-shore areas. The language to be included in the purchase and sale, or rental agreement shall be submitted to the Corps for approval within 60 days from the issuance of this modification.

d. The Permittee shall transfer the Corps permit to each slip owner. The Corps shall be notified accordingly.

Furthermore, the following additional special conditions are hereby made part of your permit:

Special Condition 15: This permit does not authorize the take of an endangered species, in particular the Federally listed threatened Green (*Chelonia mydas*) and Loggerhead (*Caretta caretta*) sea turtles, the federally listed endangered Hawksbill (*Eretmochelys imbricata*) and Leatherback (*Dermochelys coriacea*) sea turtles, and the Federally listed threatened Elkhorn (*Acropora palmata*) and Staghorn (*Acropora cervicornis*) corals. In order to legally take a listed species, separate authorization under the ESA (e.g., an ESA section 10 permit, or a Biological Opinion under ESA section 7, with "incidental take" provisions with which you must comply) is required.

Special Condition 16: Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to within one foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all erodible materials have been stabilized.

Special Condition 17: Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

Special Condition 18: The Permittee shall comply with the attached NOAA's National Marine Fisheries Service "Sea Turtle and Smalltooth Sawfish Construction Conditions", dated March 23, 2006.

Special Condition 19: If pile driving is used for the installation of pilings, and sea turtles are observed in the vicinity of project area for two consecutive days during the construction period, pile driving activities shall cease or not commence, as applicable, until appropriate measures have been implemented to ameliorate potential acoustic impacts to sea turtles. Measures to ensure the protection of sea turtles from noise impacts associated to pile driving activities shall be established in accordance with the attached NOAA's National Marine Fisheries Service "Construction Guidelines: Pile Driving", as applicable.

Special Condition 20: All excess material/debris resulting from construction of the marina facility shall be adequately discarded in an authorized upland site.

Special Condition 21: The Permittee shall install four (4) 24" tall and 36" wide educational signs at the marina facility advising about the presence of corals and their habitat in nearby small islands/cays and the potential presence of sea turtles and their foraging habitat in the vicinity of the project site; and providing information about the importance of listed corals and their habitat, seagrass beds and sea turtles, and their conservation, as well as about measures to avoid boating-related impacts to them. The educational signs shall be installed upon completion of the construction of the marina facility, and shall be maintained in good quality and with updated information for the life of the marina facility. The educational signs shall be developed based on information

provided by, and/or in coordination and with the approval of, the U.S. Fish and Wildlife Service, the NOAA's National Marine Fisheries Service and the P.R. Department of Natural and Environmental Resources, as appropriate.

Special Condition 22: The Permittee shall display/distribute bilingual educational materials (including brochures, booklets, posters, etc.) to the Marina the Ponce boat owners and residents about the importance of sensitive aquatic resources, such as listed corals and their habitat, seagrass beds and sea turtles, and their conservation, as well as measures to prevent boating-related impacts to them. The educational posters shall be displayed in prominent locations at the marina facility, while the brochures/pamphlets shall be offered to the Marina de Ponce boat owners and residents. All educational materials (i.e. brochures, posters, booklets, etc.) shall be provided by, and/or developed in coordination and with the approval of, the U.S. Fish and Wildlife Service, the NOAA's National Marine Fisheries Service and the P.R. Department of Natural and Environmental Resources, as appropriate.

All other terms and conditions of the permit, as previously modified, remain in full force and effect. You should attach this letter to the permit.

Please be advised that if by the new expiration date the authorized work has not been completed, or if further modifications to the authorized work are required, you would have to file a new permit application to the Corps through the established Joint Permit Application process.

If you have any questions concerning this permit modification, please contact Mrs. Deborah J. Cedeño-Maldonado, project manager, at the letterhead address, by telephone at 787-729-6905, extension 3061, or by electronic mail at Deborah.J.Cedeno-Maldonado@usace.army.mil.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for Alan M. Dodd
Colonel, U.S. Army
District Commander

Enclosure

Copy/ies Furnished:

Mr. Juan A. Molina-Méndez, 613 Ponce de León Avenue, Waterview Mansions, Suite 501, San Juan, Puerto Rico 00907

CESAJ-RD-PE