

May 9, 2016

Dawn L. Henry, Esq.
Commissioner
Department of Planning and Natural Resources
8100 Lindberg Bay, Suite 61
Cyril E. King Airport
Terminal Building, 2nd Floor
St. Thomas, VI 00802

Jean-Pierre Oriol
Director
DPNR – Division of Coastal Zone Management
8100 Lindberg Bay, Suite 61
Cyril E. King Airport
Terminal Building, 2nd Floor
St. Thomas, VI 00802

Re: Great St. James

Dear Attorney Henry and Mr. Oriol:

Following our meeting with Mr. Oriol and Attorney Michele Baker on April 25, 2016, we began finalizing of list of items that we believe need to be addressed immediately on Great St. James ("GSJ"). While the list is quite comprehensive, we have narrowed its scope for purposes of this communication to the more immediate requests for which we are seeking the permission of DPNR/CZM. To the extent that you determine our requests require a permit application please advise immediately so that we may submit the appropriate paperwork.

Unfortunately, we have discovered first hand that GSJ and its shores have been used as a dumping ground for the last twenty years, at least. Enclosed with this correspondence are photos taken during the first few weeks after the acquisition of the island. The substantial amount and foul nature of accumulated debris that was found across the island is both staggering and appalling. Not only is it an eyesore, but in some circumstances, it is a health and safety issue. In addition to boat wreckage that has languished on the shores of GSJ for years, illegally moored overnight boaters in Christmas Cove have used the shores of GSJ as their own personal trash pile and garbage dump, and worse, as a public toilet. The shore is littered with oil and other discharge from the boats, as well as other unidentifiable effluent. It is Mr. Epstein's intention that any clean up of the island will eliminate the unsafe and unsanitary conditions and restore GSJ to its former natural state.

Therefore, we ask for your consideration and approval of the following:

Approval of the Use of a Water Trailer. As evidenced in the photos we have provided of GSJ, there is a tremendous amount of dried brush that has been stacked all over the island over a period of time and not properly disposed of. This creates a significant fire hazard, one which the current caretaker of GSJ would be unable to handle, as there is no fire prevention system on the island. This already significant safety concern is

compounded by the fact that the current caretaker's spouse is disabled and it is imperative that they be able to deal with any potential fire issue immediately. To that end, we are requesting permission from DPNR/CZM to utilize a small tractor/pickup truck to tow a water trailer along the existing roads. Attached to this email is information on the specific water trailer that would be used on the island.

1. Clean up of Roads to Caretaker's Cottage and Quonset Hut. We would like permission to remove debris from the existing roads that extend from the main house to the caretaker's cottage, pool area and the quonset hut. We anticipate this project will require five (5) people for a period of two (2) weeks and will also require the use of a small excavator and/or track hoe.
2. Clean up of Christmas Cove and Shallow Bay Beaches. We are also requesting permission to remove man-made debris from Christmas Cove and Shallow Bay. We anticipate that the debris removal from the beaches will take approximately five (5) people a total of eight (8) weeks. It may require the use of a small track hoe and/or excavator, however these machines would only be used to remove debris. We would ask that you send a representative of your agency out to GSJ as soon as possible so that we can delineate the specific areas for clean-up and develop a plan for completing the debris removal.
3. Landscaping of East Side of GSJ. We would like permission to plant palm and mango trees on the eastern side of the island that faces Little St. James. We are aware that some endangered species of grass are growing on GSJ and therefore we would work with your agency as well as the Department of Fish & Wildlife to ensure that the proposed landscaping does not impact these species of grass. We would ask that you send a representative of your agency out to GSJ as soon as possible so that we can develop a plan for landscaping that section of GSJ.
4. Erection of a Flagpole. Mr. Epstein would like to install an 80 foot flagpole on the northwest portion of the island. We have attached a map to this email indicated where he would like to locate the flagpole. The preparation of the footing for the flagpole would require the excavation of a hole for a concrete footing of approximately 2 feet by 2 feet and 8 feet deep. The hole would then be filled with concrete in connection with the setting of the flagpole.

Our final request to clean up Christmas Cove and Shallow Bay raises an issue for which we are seeking your input. The prior owners, for reasons known only to them, created piles of garbage and debris all over the island that were left to rot. Besides being unsightly, this creates health and environmental hazards. This has resulted in the accumulation of thousands of pounds of trash that must be disposed of properly. We estimate that it may take up to one hundred dumpsters to collect the debris and detritus of the former owners and of third parties that accumulated over many years. Due to the fact that the waters surrounding GSJ are part of the St. James Marine Reserve, we are asking for your assistance in developing a debris removal plan that will allow for the removal of debris and elimination of these unsafe and unsanitary conditions from GSJ with as little environmental impact as possible.

We would also like to clarify a statement that was made during our meeting with Mr. Oriol and Attorney Baker whereby it was communicated to us that the position of DPNR is that GSJ is a wildlife preserve. This is incorrect. GSJ itself is neither a wildlife preserve nor sanctuary for that matter.

Title 12, section 97 of the Virgin Islands Code provides that the Commissioner of Planning and Natural Resources has the authority to establish wildlife sanctuaries for the purpose of propagating, feeding and protecting birds, fish and other wildlife, however this authority extends only to **publicly** owned lands. The Virgin Islands Code further provides that the Department of Conservation and Cultural Affairs has authority and responsibility for the management, control and use of all **publicly-owned islands and cays** off the shores of St. Croix, St. Thomas, and St. John. The Commissioner of Conservation and Cultural Affairs has authority to issue regulations, not inconsistent with law or other regulations authorized by law pertaining to the management, use or control of the offshore islands and cays **owned by the Government of the United States Virgin Islands**, including but not limited to, the designation of game preserves and wildlife sanctuaries, and the designation of inviolate sanctuaries where human activities are

prohibited.12 V.I.C. § 94. Because GSJ is privately, not publicly, owned, the Commissioner of Conservation and Cultural Affairs does not control or supervise it, and, therefore, GSJ cannot be designated either a game preserve or a wildlife sanctuary.

We do agree however, that GSJ is located within the St. James Marine Reserve and Wildlife Sanctuary, established in 1994. *See attached* St. Thomas East End Reserves Management Plan (“STEER Plan”) at 12; *see also* attached DPNR map. The St. James Reserve encompasses the waters surrounding GSJ and extends to the mean high tide watermark on GSJ. STEER Plan at 17. The regulations relating to the St. James Reserve and Wildlife Sanctuary, specifically V.I. R. & Regs. 96-3 & 96-4., prohibit among other things, the removal of any marine or other wildlife and fishing by certain methods, but do not discuss development in lands adjacent to the reserve

Finally, we would like to address the issue raised at the meeting with respect to Mr. Epstein landing his helicopter on the property. We are aware that should Mr. Epstein wish to construct a permanent helicopter landing pad on GSJ he is required by law to obtain the necessary permits and get the approval of DPNR. We were advised at the meeting that Mr. Epstein could not land his helicopter on GSJ nor could he get a permit to do so because it was a wildlife preserve, however, as it is not in fact a wildlife preserve, that prohibition would not apply.

We welcome the opportunity to discuss these items further with you.

Very truly yours,

Erika Kellerhals

cc: Michele Baker