



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
<https://www.fisheries.noaa.gov/region/southeast>

7/15/2021

F/SER31:JS

(Sent via electronic mail)
jvaz@bellagiocorp.com

Mr. Jorge Vaz
President
Bellagio Corp
P. O. Box 366751
San Juan, Puerto Rico 00936

RE: Finca Sueño de Aurora Residential Development, 2017 CGP NPDES ID: PRR1000A9

Dear Mr. Vas:

On May 9, 2006, the National Marine Fisheries Service (NMFS) published a final rule listing both elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals as threatened species under the Endangered Species Act (ESA) (71 FR 26852). Further, on October 29, 2008, we published a final ESA 4(d) rule for threatened elkhorn and staghorn corals, which extends all of the prohibitions listed in section 9 of the ESA to these two coral species (73 FR 64264), with exceptions for scientific research and coral restoration activities. It is therefore illegal for anyone under the jurisdiction of the U.S. to "take" either species of coral. Under the ESA, "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.

It has been brought to our attention that construction activity located within the property of Finca Sueño de Aurora (18.349839°N, 67.260261°W) may be adversely affecting the elkhorn and staghorn corals within the Tres Palmas Marine Reserve (TPMR) due to heavy runoff from the construction site. Photos provided to us from concerned citizens show sediment laden water flowing heavily from the project site, from where it allegedly flows, following the natural drainage channel, into the ocean and into the TPMR through Steps Beach. We can also infer from the photos that controls to prevent sediment runoff from your construction site are absent, installed incorrectly, and/or are insufficient to prevent runoff.

Land-based sources of pollution (i.e., sediments, nutrient enrichment, and contaminants) are significant threats to elkhorn and staghorn corals. Activities that result in increased sediment, nutrient, or contaminant discharge can cause injury and death of these species. Please be advised that the impacts of your site's construction run-off could result in a violation of the ESA, if they do in fact lead to injury to elkhorn or staghorn coral colonies, which may lead to an enforcement action pursuant to section 11 of the ESA.

We request that you take immediate action to ensure that your construction activities



at the Finca Sueño de Aurora site does not result in sediment laden run-off into the TPMR, avoiding the possibility of any additional injury to ESA-protected corals.

A copy of the final 4(d) rule is enclosed for your information. If you have any questions, contact Jennifer Moore, our *Acropora* Coordinator, at (727) 824-5312 or jennifer.moore@noaa.gov. We appreciate your support in conserving elkhorn and staghorn corals, important parts of the natural heritage of Puerto Rico.

Sincerely,



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David Bernhart
Assistant Regional Administrator
for Protected Resources

Enclosure

File: 1514-06

cc:

EPA: Jose A. Rivera, Sergio Bosques, Jamie Lopez

F/SER3: David Bernhart

F/SER31: Jennifer Moore, Jennifer Schull, Helena Antoun

F/SER47: Pace Wilber, Jose A. Rivera

PMG: Luis G. Malave, PMG NOI Preparer