
From: Erika Kellerhals <[REDACTED]>
Sent: Sunday, November 13, 2016 11:49 PM
To: Michele Baker
Cc: Jean-Pierre Oriol; Chris Kroblin
Subject: Re: NOVA-04-16-STT

Good evening Michel. I was just following up on my email below, which was sent on Friday afternoon, to confirm that you received it, as I have not yet heard back from you. Can you please advise at your earliest convenience as to your agency's calculation of the deadline to meet the cure provisions?

Thank you in advance.

Erika A. Kellerhals <[REDACTED]>

Member

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From: Erika Kellerhals <[REDACTED] <mailto:[REDACTED]>>
Date: Friday, November 11, 2016 at 4:54 PM
To: Michele Baker <[REDACTED]>
Cc: Jean-Pierre Oriol <[REDACTED]>, Chris Kroblin <[REDACTED]>
Subject: Re: NOVA-04-16-STT

Michel,

Good afternoon. I apologize for not responding sooner, but our office was closed today for the holiday and I was not checking email as often as I do on a normal work day.

In the Notice to Cure served by your agency on November 4, 2016, the Commissioner unilaterally gave only ten (10) days, (where normal business practice is a reasonable time when not described in the contract) including weekends and holidays, to remove "all unpermitted development and structures listed above and reinstate the areas disturbed to their natural undisturbed state or provide a valid permit authorizing such." The ten days cited in the Notice to Cure would expire on November 14, 2016, as contrary to customary business practices, your agency is using calendar days and not business days. I am not aware of any statutory provision that would require calendar days, but if I am mistaken, please let me know.

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As you know, we submitted a written request for an extension of time to cure the alleged violations by email on Monday, November 7, 2016. Section 3d of the Settlement Agreement executed by the parties contemplates the expiration of a cure period, however no time period was agreed upon by the parties in the executed Agreement. In our November 7th letter, we requested time for a reasonable mobilization period as well as the opportunity to discuss the required cure provisions at our meeting scheduled on the November 16, 2016. We also indicated that we did not believe that ten (10) calendar days is a reasonable amount of time. In communicating with you, my hope was that we could come to a mutual agreement as to what would in fact be reasonable.

We also anticipated that the meeting would provide an opportunity to discuss factual inaccuracies relied upon in the Notice to Cure, which includes the removal of moorings that were not installed by Great St. Jim, LLC and were in existence prior to the purchase of the island, the demolition of a movable beach bar/cabana which DPNR Officer Rosa had notice of and is not a permanent structure and previous excavation work which was covered by the terms of the prior Settlement Agreement. Furthermore, my understanding is that there is no machinery on the island to complete the cure as you indicated in your email, and it is unlikely that we will be able to get appropriate machinery on island prior to early next week.

Also please let me know if I misunderstood and it is the position of CZM that the cure period of ten (10) days begins upon date of the notification of your formal denial of the request for an extension of the cure period?

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Member

Kellerhals Ferguson & Kroblin PLLC

Royal Palms Professional Building

9053 Estate Thomas, Suite 101

St. Thomas, VI 00802

[REDACTED]

[REDACTED]

email: [REDACTED] <mailto:ekellerhals@kellfer.com>

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From: Michele Baker <Michele.Baker@dpr.vi.gov <mailto:Michele.Baker@dpr.vi.gov>> > Date:= Friday, November 11, 2016 at 11:06 AM

To: Erika Kellerhals <[REDACTED] <mailto:ekellerhals@kellfer.co>> >

Cc: Jean-Pierre Oriol <jp.oriol@dpr.vi.gov <mailto:[REDACTED]>> >, "jaredian2@vipowernet.net <mailto:jaredian2@vipowernet.net>" <jaredian2@vipowernet.net <mailto:jaredian2@vipowernet.net>>, 'Amy Claire Dempsey' <bioimpact.islands.vi@gmail.com <mailto:bioimpact.islands.vi@gmail.com>> >

Subject: Re: NOVA-04-16-STT

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Good morning Erika,

We wanted to advise you that the time to cure the violations pursuant to the notice will not be extended. Formal letter will follow but please ensure that your client removes all development listed on the Notice.

The helipad should only take him 2-3 days to remove with the use of an expanding agent. All the other structures/development can be removed within a couple hours each and may all be conducted simultaneously. The moorings can be removed in less than an hour with a diver. The fuel tanks can be hauled off by truck. The machinery is already on Great St James and should not be a problem for your client. The removal can be completed within 3 days (at the most 4).

Your immediate attention to this matter is appreciated.

Best regards,

Michèle Baker
Legal Counsel
Division of Coastal Zone Management
Department of Planning & Natural Resources
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From: Shauna Betz <sbetz@kellfer.com>
Sent: Monday, November 7, 2016 4:42:45 PM
To: Michele Baker
Cc: Jean-Pierre Oriol; jaredian2@vipower.net <<mailto:jaredian2@vipower.net>> ; 'Amy Claire Dempsey'; 'Erika Kellerhals'
Subject: N=VA-04-16-STT

Good day Attorney Baker:

Please see the attached correspondence.

Best regards,

Shauna Betz

Legal Assistant

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Tel: 340 779 2564

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email: sbetz@kellfer.com <<mailto:sbetz@kellfer.com>>

PLEASE NOTE OUR NEW ADDRESS

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