

The Virgin Islands Consortium

Coral Bay Groups Sue Army Corps Over Summers End Marina Permits, Seek to Halt Project

Save Coral Bay, the Coral Bay Community Council and David Silverman are suing the Army Corps over Summers End Marina permits, alleging unlawful approvals, flawed environmental review and improper reliance on a permit they say had expired years earlier.

Legal / **Published On August 11, 2026 09:50 AM /**

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ST. JOHN — Three opponents of the Summers End Marina project filed suit Monday against the U.S. Army Corps of Engineers, asking a federal court to vacate permits issued for the controversial Coral Bay development and halt project activity until new approvals are obtained through what they contend would be a lawful review process.

Save Coral Bay Inc., the Coral Bay Community Council and David Silverman allege that the Army Corps “failed to adequately and independently evaluate, study, consider and mitigate” the project’s negative impacts and “acted arbitrarily, capriciously, and not accordance with the law.”

The 50-page civil complaint challenges the permitting process on multiple fronts, alleging inadequate environmental review, improper reliance on a disputed territorial permit, missing required documentation, questionable mitigation calculations and an increasingly cooperative relationship between federal reviewers and the developer.

The lawsuit also alleges that the Army Corps’ handling of the project changed after a corporate investor in Summers End Group made a \$25,000 campaign contribution to U.S. Rep. Garret Graves, who subsequently advocated for approval of the marina.

As of press time, the defendants had not responded to the lawsuit.

Plaintiffs Point to Widespread Opposition

According to the complaint, the Army Corps received more than 27,000 “letters, emails and comments” and more than 7,500 petition signatures opposing the Summers End project.

The lawsuit says only 13 letters supporting the project were submitted.

Organizations that have opposed the development include the St. John Historical Society, Friends of Virgin Islands National Park, Coral Bay Yacht Club, League of Women Voters of the Virgin Islands and National Parks Conservation Association.

The plaintiffs contend that the circumstances surrounding the eventual issuance of federal permits were highly irregular and, considered together, suggest that the Army Corps’ decision was influenced by factors other than governing law and established procedure.

Permitting Process Dates Back to 2014

The complaint traces the federal permitting process to 2014, describing repeated revisions and supplemental submissions by Summers End Group because of incomplete applications, missing information and changing conditions at the project site.

The Army Corps consulted with several federal agencies as part of its review, including the National Marine Fisheries Service, which operates under the National Oceanic and Atmospheric Administration.

As the marina proposal changed over the years, permits expired and modifications became necessary.

In 2020, Gov. Albert Bryan Jr. issued a modified consolidated Coastal Zone Management land and water permit that was later ratified by the V.I. Legislature.

According to the lawsuit, however, that approval did not address a 2014 Water Quality Certification that had been issued for an earlier version of the marina that bore little

resemblance to the project plans in effect by 2020.

The plaintiffs maintain that the 2020 territorial permit subsequently expired in December 2021.

Lawsuit Alleges Relationship Changed in 2023

The complaint alleges that the nature of communications between the Army Corps and Summers End Group changed significantly in 2023.

Before September of that year, according to the lawsuit, “the overwhelming number of communications between the Army Corps and SEG were formal.”

Then, in early September 2023, the complaint says “an officer of a corporate investor in the SEG project made a \$25,000 contribution to the campaign of the United States Representative Garret Graves,” a member of the House Committee on Natural Resources.

The lawsuit notes that the committee has direct oversight of the National Marine Fisheries Service.

According to the complaint, Graves subsequently began advocating for approval of the marina.

After his intervention, the lawsuit alleges, communications between Army Corps personnel and Summers End Group officials became substantially less formal — conducted “mainly through emails rather than formal comment letters and [requests for additional information].”

The complaint also alleges that Graves was kept informed about the status of the Army Corps review.

According to the plaintiffs, the review then “became one of coordination and cooperation with SEG, and acceptance of SEG’s technical assertions without independent review and evaluation by the Army Corps.”

Dispute Over Whether CZM Permit Expired

The lawsuit points to the controversy surrounding the attempted 2025 renewal of the modified CZM permit as another example of what plaintiffs describe as improper coordination.

The permit issued in 2020 was supposed to have expired in 2021, according to the complaint.

CZM Director Marlon Hibbert, responding to an inquiry from the Army Corps, deemed the permit “null and void.”

After the Army Corps informed Summers End Group that it would need to apply to CZM for an updated permit, the developer instead approached Bryan and sought another extension that would bypass CZM.

That effort was rejected by the Legislature.

A subsequent opinion from the V.I. attorney general concluded, however, that the 2020 permit had not expired “because the permit does not become operative until the necessary federal approvals are secured.”

The plaintiffs dispute that interpretation.

According to the lawsuit, the language of the modified permit expressly extended its validity until one year after its effective date in December 2020.

The complaint therefore alleges that the Army Corps “acted arbitrarily and capriciously by adopting this non-binding executive opinion over the express regulatory determinations of the St. John CM Committee and the Virgin Islands Legislature.”

The plaintiffs further argue that “neither the USVI Legislature nor the Governor has authority to unilaterally extend or revive an expired VI CZMA permit.”

Citing Virgin Islands law and regulations, the complaint maintains that “only the St. John CZM Committee has statutory authority to issue or extend a VI CZMA permit for a major project on St. John.”

The St. John CZM Committee continued to maintain that the 2020 permit had expired even after the attorney general issued the opinion.

Nevertheless, the plaintiffs argue, “the Army Corps deferred to an opinion of Governor Bryan, who had no legal authority to unilaterally extend the CZM permit.”

Complaint Alleges Missing Documentation

The lawsuit also challenges the circumstances surrounding three nationwide permits issued by the Army Corps.

The last of those permits was issued on March 31, 2026, despite what the plaintiffs say was the absence of an application or request from Summers End Group for that permit.

The plaintiffs say Freedom of Information Act requests confirmed that pre-construction notifications were entirely absent from Summers End Group’s requests for the three permits.

That absence, according to the lawsuit, conflicts with Army Corps Memoranda of Record stating that such notifications had been received and evaluated.

Mitigation Review Also Challenged

The complaint further accuses the Army Corps of failing to adequately determine the scope and nature of compensatory mitigation necessary to offset the project’s environmental impacts.

According to the plaintiffs, that process resulted in approval of a compensatory mitigation plan that was inadequate for the impacts it was intended to address.

The lawsuit contends that Army Corps personnel did not maintain sufficient independence while Summers End Group performed required calculations. Instead, officials allegedly assisted the applicant whose work the agency was responsible for reviewing, which the plaintiffs characterize as a conflict of interest.

Communications between Army Corps officials and a Summers End Group consultant concerning the purchase of land are also cited by plaintiffs as evidence that the agency failed to maintain an independent posture toward the developer.

The complaint argues that properly performed calculations would demonstrate that the marina is not in the public interest.

Instead, plaintiffs allege that the Army Corps accepted incorrect calculations from Summers End Group without independently evaluating them and consequently approved a project that will cause net harm to the marine environment of Cruz Bay and people living near the project site.

Former Commander Allegedly Signed Permit After Replacement

The plaintiffs say irregularities continued through the final stages of the approval process.

In one instance cited in the complaint, an Army Corps official allegedly signed a permit in his capacity as District Commander despite having been replaced in that position several weeks earlier.

Based on that allegation and the other permitting, environmental-review and public-comment issues detailed in the lawsuit, the plaintiffs accuse the Army Corps of violating the Rivers and Harbors Act, Clean Water Act, Coastal Zone Management Act, National Environmental Policy Act, Endangered Species Act and Administrative Procedure Act.

They are asking the court to vacate the permits issued for Summers End Marina and stop all project activity until “new and lawful approvals...are issued by the Army Corps.”