



CORALATIONS

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U.S. Executive Coral Reef Task Force
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San Juan, Puerto Rico

CORALations is an award winning Caribbean coral reef conservation organization based on the island of Culebra Puerto Rico. We founded in 1995 in San Juan, and our mission locally is To Conserve, Nurture and Educate. We have been recognized in the past by this Task Force “*for outstanding leadership and creativity to raise public awareness, promote coral reef education, and foster community participation in the protection of Puerto Rico’s coral reef ecosystem.*” CORALations was recognized, in partnership with a team of local scientists who, along with local Fishermen, were awarded the Presidential Coastal America’s Spirit Award for collaborations which resulted in the designation of the first no-take marine protected area in Puerto Rico waters.

The no-take marine protected area was originally proposed by the Culebra Fishermen’s Association in 1981, based on information provided by the then National Marine Fisheries Service biologist Dr. Vance Vicente. Fishermen attracted the attention of a local advertising executive, who was so moved by the coral reefs of Culebra that he started his own conservation organization focused on Culebra’s coral reef ecosystem. With his support, the fishermen began what turned into an 18-year-long struggle towards the formal government designation of the no-take reserve in 1999. Local university scientists and students, led by Dr. Edwin Hernandez Delgado, accumulated the mountains of data necessary to support the reserve designation while living in impossible conditions at the Flamenco camp ground. Sea Grant allowed all interested to attend community and government meetings, and emphasized the most important prior lesson-learned in similar processes towards the designation of reserves, that of *meaningful engagement of all affected sectors of society into the process.* While the governor’s formal designation ceremony in 1999 failed to recognize the role of the local Culebra Fishermen’s Association in this process, the Department of Natural and Environmental Resources’ technical personnel agreed to the verbiage that credited the local Fishermen’s Association as originators on signage and educational materials that our organization and NFWF funding helped to produce.

We later asked the U.S. Executive Coral Reef Task Force to help create a management plan for the no-take marine protected area. We were surprised to find out at this Task Force meeting the management plan was approved by the Puerto Rico Planning Board last summer, with no final public hearings as required by law. While we were engaged as just one of the working group members on this plan, we have liked to have formal comment opportunity on the final product submitted. This happens at a time when we are outspoken opponents of projects being “fast tracked” through the Planning Board approval process without meaningful public participation. Our commitment to this project was to focus on community based management.

While there is not yet a scientific publication regarding the Culebra Fishermen's no-take reserve area (as meaningful scientific documentation can also take time), the major lesson from this accomplishment is that community based approaches can work, and they can work against the strongest political tides. They also take time largely to establish transparency which helps to built trust in these processes.

☞ **NOAA approach forces unhealthy competition**

At this latest Task Force meeting, a workshop was held in part to define priority watersheds in Puerto Rico for funding. For the last ten years we have been recommending proactive education-linked employment focused at the sectors of society identified by scientists as having the greatest impacts to coastal waters, from repairing and restoring poorly developed watersheds to collaborative community efforts to restore coral and sea grass prairies. Both federal and local legislation define Culebra watersheds as a priority.

1. Coastal waters of Culebra were designated as critical habitat in 1994 for green sea turtles.
2. All of Culebra's sea grasses are listed as critical habitat. Some are further listed as Resource Category 1, a designation that further considers them as irreparable if destroyed.
3. Culebra north shore beaches are all listed as Critical Habitat sea turtle nesting beaches.
4. Culebra currently has the only coral farming and transplanting project in US Caribbean waters. The farm was established in 2003, and is maintained by local university students under the supervision of Sociedad Ambiente Marino (SAM), and under the supervision of Dr. Edwin Hernandez Delgado. Most recently, local at-risk students from Culebra were SCUBA certified by SAM and have assumed non-technical positions on the farm.
5. Culebra waters to three miles offshore are critical habitat for threatened Acroporids, the fast growing coral currently the focus of the coral farm.
6. Public policy of Culebra as defined by PR Law 66, 1975 (as amended) is to protect the ecological integrity of the island for the enjoyment of future generations and a special branch of government was created to address this. As a single island municipality, one local government is involved in implementing projects that can issue benefits from ridges to reefs.

Like marine protected areas, our coastal waters know no water quality boundaries. Once runoff reaches coastal waters it is influenced by littoral drift and impacts to coastal waters can be widely felt. The best watershed protection depends on wide scoping agency regulation, implementation and enforcement. Sensitive watersheds should be protected from destructive development practices, and where already protected by zoning like on Culebra, federal agencies should take care in permitting or partnering on project in areas that benefit from the protective zoning. Possibly one of the most important aspects of watershed protection is the protection of dry river beds or ghuts. EPA has told us the demarcation and protection of these river beds is the responsibility of the US Army Corps of Engineers. Currently we understand that this agency employs only one enforcement officer to cover all the Caribbean US Commonwealths and Territories.

We question the criteria used to support the watersheds ultimately defined as priorities at this latest Task Force meeting. The outcome of the meeting on watersheds, for example, seems to

force small community organizations and local government agencies to *lobby* visiting agency representatives for their attention, pitting small organizations seeking to restore their watersheds against other small organizations seeking the same. Of even greater concern is that the successful community partnerships needed to mobilize people, change behaviors, and conserve and restore critical coastal ecosystems will likely not be achieved through financial competition for desperately needed watershed restoration funding. The federal and local designations listed to protect Culebra's waters should reinforce Culebra watersheds as a priority for federal agencies involved in this Task Force. For the past decade we have issued appeals to agencies to address this, but illegal and unsustainable development practices continue to devour the island. We would be happy to propel model watershed projects, but more important is for local and federal agencies to implement and enforce the regulations they have to protect these resources.

RECOMMENDATIONS:

- 1) We recommend that NOAA select priority watersheds for restoration based on the best available science, public policy and federal designations prioritizing areas.
- 2) The island of Culebra should be considered a priority watershed area.
- 2) The community approaches should facilitate collaboration, not competition among like minded organizations at future meetings.
- 3) We respectfully request the specific criteria on which the last priority watersheds were selected at the latest Task Force meeting.

☞ Implementation of Clean Water Act in waters designated as critical habitat for corals.

In our first presentation to this Task Force, on St. Croix in 1999, we collaborated on a presentation that documented the abuse of the 301 h Clean Water Act waivers which then EPA had failed to either grant or deny for over a decade for large *primary* waste water treatment plants with ocean discharge in Puerto Rico and the United States Virgin Islands. Today, the USVIs have updated their waste water treatment plants, while the primary plants in Puerto Rico have waivers. After our appeal to the Task Force in 1999, EPA Region II offered Puerto Rico another 20 years to come into *voluntary* compliance to the unambiguous goals established by the Clean Water Act, no discharging into waterbodies past 1985. More recently, EPA issued a consent decree with local government. While the decree represents a Herculean effort to move local government into compliance on potable and waste water treatment plants, we observed that it also changed discharge parameters from the *primary* plants, removing those parameters that had been in chronic non compliance to even primary removal standards from being evaluated. This brought some of the *primary* plants into compliance to the *primary* removal standards, but into paper compliance only. While the Government of Puerto Rico charges for waste water treatment services, the large, regional primary plants only consolidate, settle and hyper-chlorinate the waste before discharging into coastal waters. We question if these plants may not actually be money makers, charging a standard rate for services that are ultimately not provided. These plants today serve as infrastructure for incremental coastal development that bears its own tremendous impacts on coastal water quality as well.

Our small organization finally sued EPA to get them to update coastal water quality standards which had been based for over a decade on the uncritical adoption of standards from New York and New Jersey. We had to sue the agency to get them to adopt and implement the required anti-degradation policy. We sued the Puerto Rico Aqueduct and Sewer Authority (PRASA) to get them to repair a discharge tube leaking black water over south coast reefs from the Ponce waste water treatment plant. We had to drop our case against the Ponce plant for non-compliance on the discharge of *phenolics*, when the EPA consent decree removed problem

parameters from being monitored. This complex decree warrants further investigation, specifically in the area of the primary waste water treatment plants. While clearly the removal of problem parameters now gives the illusion of more compliant primary plants, we are concerned that it is just an illusion.

The burden of demonstrating environmental harm as demanded by the 301 (h) waivers should not be placed on the citizens, as was suggested to us by a previous Washington Clean Water Office Administrator. This especially when policies implemented today are so far off the mark of the unambiguous goals defined by the decades-old Clean Water Act. The primary plants should at best be considered band-aids until such time that the local government upgrades these plants to properly treat waste water and reclaims the fresh water discharged along with the waste. The best industrial information is typically used as a benchmark for assessing the cost of new plants to adequately treat this wastewater as opposed to assessing the actual cost of re-tooling existing plants to advanced secondary.

The Carolina Primary Waste Water Treatment plant, located in the community of Loiza, was proposed to prevent sewage from bubbling up in the streets of Loiza in the late 70s. The plant was instead used as infrastructure supporting the industrialization of Carolina, with pharmaceutical and other industries discharging from the improperly installed tube for over a decade without a pre-treatment program. Sewage is still bubbling up in the streets of Loiza. In 1997, the late environmentalist, Sarah Peisch from Centro de Acción Ambiental, brought EPA to the site to witness “floatables” and the RSV Anderson came to investigate. What they found was the tube was not even discharging in the area defined as the mixing zone. The “mixing zone” is the area where it is agreed environmental damage can be caused to accommodate these substandard primary plants with ocean discharge. The agency philosophy that “dilution is the solution to water pollution” offers EIS documents full of mixing zone calculations that could not possibly be supported given that, by definition, such a zone cannot function to “mix” effluent if the area of discharge is shallow and the waters are physically homogenous. The fresh water and wastes are discharged typically at night, rise to the surface and then are blown toward shore on surface currents. The Ponce plant is the only deep water outfall, and that was leaking until we pressed for resolution in court. Coral reefs share and distribute larval fish and corals via currents. The Diadema plague of 1984 led to the discovery that pathogens can travel along Caribbean currents as well. The damage these plants are doing, therefore, will not be limited to Puerto Rico and US Commonwealth corals. This abuse of the Clean Water Act, combined with warming sea surface temperatures, is predicted by the National Academy Press publications to result in compromising immune systems of other marine creatures, contamination of food supplies, and the proliferation of organisms pathogenic to both humans and marine life. Tourism is the only growing industry in the region and should bring with it economic incentive to protect the environment, but Federal government needs to use its authority to push for clean water today. Today this abuse is happening in coastal waters designated as critical habitat for coral reefs. The Clean Water Act goals were unambiguous - discharges into America’s waterways were to be eliminated by 1985.

RECOMMENDATIONS:

- 1) Impose sewer bans for the existing primary plants, and do not allow the abuse of 301(h) waivers allowing ocean discharge to serve as infrastructure for more coastal development.
- 2) Force local government to create and implement a plan to re-tool existing plants to advanced secondary treatment consistent with the decades-old Clean Water Act. 301

(h) should never be an option in areas graced with coral reef that depend on tourism dollars.

☞ **Public - Private partnerships negatively impacting coastal resources**

Most recently we have seen private-public collaborations worded to protect the environment on Culebra minimally “greenwashing” and worst case legalizing negative impacts to coastal waters from illegal coastal construction practices. We found no science reflecting benefits of these collaborations to protecting the environment to support this alternative. The documentation we are collecting demonstrates that these public-private collaborations are resulting in negative impacts to fragile watersheds and areas with protected species.

Federal coastal restoration funding has supported invasive tree removal project on Culebra. Work associated with the project (at least according to area signage) constructed two poorly planned and illegal dirt roads which bisect and canalize powerful dry creek beds and have resulted in massive erosion onto reefs that support protected coral species. Signs posted at the development sites referencing agency agreements implying that all agencies, local and federal, have authorized the privatization of coastal properties and public facilities once enjoyed by the public. The signs not only hurt the federal and local agency’s reputation, they also compromise the trust needed to implement meaningful conservation initiatives with local communities in the future.

We have seen the first Habitat Conservation Agreement issued in U.S. Caribbean waters between USFWS and NE Shore Developers on Culebra go without any oversight to dramatically eroding roads in one of the most sensitive Caribbean watersheds. The agreement offered the developer the take of two turtle nests in return for the implementation of conservation practices most of which were already specified by local law, and a formal turtle monitoring project for the beach has yet to be funded by the developer.

Last year we documented the Sea Dream Cruise lines anchoring on the reefs off the Culebra National Wildlife Refuge cay of Culebrita. Via FOIA we obtained copies of the permits issued by the agency. The permits issued reflected a lack of standardization in the permitting policy and while the copy of the permitting policy was not sent, a copy of the regulation allowing for policy development was, leading us to conclude there may be no written policy in place despite the actions being taken to both permit and enforce visitors at National Refuge Cays of Culebra. USFWS indicated the coral reefs being anchored on by the large vessel visiting the cay were not their jurisdiction. NOAA investigated and found not only anchor damage but impacts from prop wash to the reefs from the huge vessel. The US Executive Coral Reef Task Force compels all federal agencies to do what is in their power to protect coral reefs. While the reefs are a concern of local DRNA, it is clear that the vessel of this size would only anchor on these reefs if it were permitted to disembark passengers on the refuge cay. The vessels also bring with them all inclusive water sports and jet skis were seen disturbing sea grass listed as Resource Cat 1 Critical Habitat important foraging areas for green sea turtles. The island saw no revenue from the cruise boat. The area is littered with unexploded military ordinance which an anchor like this could explode. After years of exposing this issue to agencies and local media we were upset to find out that Culebrita is again listed as a destination for the Sea Dream I and II for 2009 and 2010.

RECOMENDATIONS:

1) Culebra National Wildlife Refuge establish a formal permitting policy to govern use of these cays, and that this takes into consideration, consistent with Executive Order 13069, anchoring impacts to coastal reefs and related habitats.

2) Incentives for local small businesses (Coast Guard approved six pack tour boats) that help with refuge maintenance should be grandfathered in to use these cays. The agencies should work to incent and collaborate with small eco-tour related local businesses as this will increase the economic incentives within the local community to protect the natural resources.

NPDES Permitting - Public-Private Negotiations

We have also encountered serious problems with EPA NPDES storm water discharge permitting on the island of Culebra. The Villa Mi Terruño case on Culebra, as just one example, we are encountering EPA oversight validating illegal roads carved in a fragile environmental area that benefited from protective zoning. The roads carved are consistent with plans submitted, but not yet approved, for the dramatic and dense urbanization of an area that enjoys low density protective zoning. The protective zoning was put in place decades ago to protect the stellar coastal waters of Culebra from impacts to the steep sloping, fragile erodable volcanic soils. Endangered and endemic plants and animals have been impacted, and this documented in the federal record in photos submitted to USFWS.

While Culebra enjoys protective low-density zoning, it does not enjoy legitimate enforcement of these regulations. Roads were illegally put in at the Terruño project, canalizing sediment into coastal waters, and to our surprise EPA wrote the developer acknowledging an understanding that the developer cannot control all erosion. Our position is the roads are illegal, they present chronic contamination and should be reforested. The response from EPA to developers allowing more sedimentation from the illegal roads contradicts with the Clean Water Act. We would welcome the opportunity to discuss this with the local agency especially after learning similar issues happen in the States.

RECOMENDATIONS:

- 1) USFWS publicly post any announcements in the town of Culebra regarding all future private public partnerships so locals have a chance to submit comments,
- 2) Agency should not issue any more Habitat Conservation Agreements without budget to monitor and enforce agreements.
- 3) Contracts for public private partnerships involving the allocation of federal funds should require a statement indicating sole ownership before federal funds are allocated for work on the property.
- 4) Investigate the use of federal funds now associated with a USFWS funded coastal restoration project impacting the water quality of Flamenco Bay, and privatizing coastal accesses on Culebra Puerto Rico.
- 5) Investigate current negotiations between EPA and Villa Mi Terruño resulting in a document which acknowledges that developer cannot curb all sedimentation from the illegal work being done at the project location.

☞ Local Coastal Zone Program of DRNA needs support delineating public domain

In response to the escalation of beach deforestation and privatization on Culebra, we have over the past eight years requested local agencies, government representatives and finally the government ombudsman for official delineations of the public domain of Culebra's beaches and as required by the co-federally managed Coastal Zone Management Plan. Because of our defense of these public resources, we have been dragged along with other locals through local

and superior courts of Puerto Rico, multiple times. Today, we are told formal delineations of the coastline exist for many of the controversial areas and have seen reference to a number on one sign demarcating a project that privatized an historic beach access roads and a parking area. However, at no area have there been installed corresponding physical ground markers (DRNA medallions permanently sunk in concrete) delineating the public's domain and for the public and private developers to reference.

We must also mention that we saw enormous progress over the past five years regarding transparency and education for the Puerto Rico Coastal Zone Management Program, which we attribute to their excellent website propelled by strong inter-agency managers. The agency also recently implemented a policy of public notification and meaningful participation for the delineation of beaches by those planning coastal projects, albeit in response to a recent legal action. Today what we lack are the physical markers of the public's domain and we understand current financial constraints for the markers are the limiting factor.

RECOMMENDATIONS:

1. Ensure the physical demarcation of the public's domain is completed before all coastal projects involving federal agency partnerships or funding begin.
2. Funding is located to support local physical demarcations of beaches where public domain delineations have been completed.

☞ Reef Restoration and Responsible Parties....

Agency deal making with responsible parties is hurting coral reefs in Puerto Rico and is a lost opportunity for engaging local stakeholders in employment linked restoration education opportunities. This concept encompasses more than just "green" jobs creation. Today NOAA relies on well connected government contractors with little restoration experience for what is turning into chronic impacts from oil tankers off the south coast of Puerto Rico. The tankers continue to impact reefs because they fail to hire a pilot to navigate the shallow reefs, and rescue pilots removing the vessels continue to fail to float cables despite decades of lessons learned now. Mortality should be a factor when evaluating the success or failure of these coral restorations. By relying on the response of trained locals, we believe the immediate restoration can yield more timely and therefore successful restoration results. Recently a NOAA representative explained that the agency is moving to empower locally based contractors to facilitate more effective emergency response. They explained that only registered government contractors had the appropriate insurance, and it is our hope that NOAA will not continue to bypass those folks who dedicate their lives solely to coral conservation and restoration from being involved in future coral restoration opportunities. We also hope the agency develops a standard of restoration procedures including a process of validation of the new personnel they are introducing to reef restoration through these contracts to insure the expensive work done by the contractor's is reflected in the high survival rate of the restored animals. A percentage of the restoration dollars should be allocated to local job creation to meaningfully engaged area fishermen in restoration and possibly long term monitoring activities for their area.

☞ Reliance on the Responsible Party to Salvage Plane

We have another case documented in Culebra where a plane crashed in the no-take reserve that resulted in a decision made by all local and federal agencies to allow the responsible party to remove the plane. They dragged the oil dripping plane from the outskirts of the reserve where it crashed, above two coral farms, and dragged it on shore for removal in the heart of the no-take reserve area. The responsible party in this case was photographed working with local and federal agencies, while drinking Heinekens as they transferred fuel and dragged the plane

onto the shore. While it is difficult to criticize the choice of beers, obviously the pilot who crashed the plane may not have salvage experience necessary to remove the plane from the ecologically sensitive area. While we agree the responsible party should pay for removal, the agencies should have hired a competent salvage operation. The plane should have been lifted and removed in a less environmentally sensitive area.

☞ **Reliance on responsible party and fire**

Most recently the reliance of EPA on responsible party for clean up may have contributed to a major fire at a Caribbean Petroleum storage facility located adjacent to coastal wetlands in the coastal zone. The fire was so intense that it triggered a state of emergency from the President of the United States. EPA was allowing Caribbean Petroleum to clean up petroleum that has leaked into coastal wetlands as opposed to fining for the egregious violation and handling the clean up themselves. We believe the latter alternative may have helped to prevent the recent catastrophe and are concerned about this chronic reliance to deal directly with the violators.

☞ **NOAA and The Nature Conservancy**

Large NGOs with Washington offices have obvious political advantages over small locally based community groups in the voracious federal funding food chain. Like primary producers, the NGOs on the bottom of the food chain deserve some support since they demonstrate they can help to effect meaningful change at the community level, thereby maximizing conservation dollars. The non federal requirement of 50 / 50 matches for NOAA funds forces small NGOs to volunteer services, rendering many projects impossible and removing more of an opportunity for the creation of community based green stimulus dollars.

Forcing unwanted partnerships with large organizations should not be the job of federal agencies. The large org we were advised to partner with on the Obama restoration stimulus RFP, The Nature Conservancy, does not embrace the conservation approach or ethic we believe is effective. The Washington Post did a series of articles on the organization in 2003. After we were told by NOAA they expected \$1.2 million would be available for our region for coral restoration dollars to expand the successful coral farming collaboration on Culebra, the large organization first offered our university partners \$500K, then they offered \$350K to partner on the request for funding proposal for expansion of the Culebra coral farm. While the Culebra coral farms did not get the stimulus funds, and we completely understand that the proposal field was very competitive, we were shocked to learn that The Nature Conservancy did, and for restoration work that not only is not "shovel ready" but for restoration work that does not exist. The same organization brought \$20 million to forge a coral conservation partnership with NOAA. It seems like if the Nature Conservancy is bringing millions to the table to offer to reef conservation/restoration in close partnership with NOAA, why did they compete for the stimulus funding allocated by NOAA, for a project in this region that was not even exist? The Washington Post ran a series of articles about how the large NGO accumulated its wealth. The stimulus restoration funding involved millions of dollars and given subsequent scandals exposed by the Washington Post regarding the large NGO and behaviors of its CEO, we believe the public should have a voice, an opportunity for meaningful public participation in these future agency collaborations with private NGOs that could impact coral conservation in the future.

Ley de Permisos and PR Ley #7, 2009

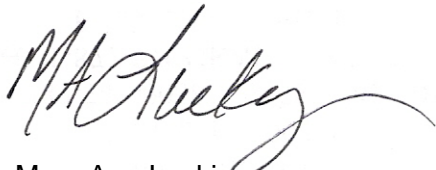
Two new laws introduced by Puerto Rico's current Governor impact local environmental oversight on construction permitting and government agency staffing. In response to the economic depression in PR the governor is passing laws to remove environmental oversight and dismantle the local agencies that safeguarded the environment. Law #7 laid off tens of thousands of government employees and the new permitting law essentially creates a

permitting office, devoid of the planning. The harm to coastal waters is likely to be irreparable and EPA, NMFS, NOAA, USFWS and ACE non-discretionary duties of oversight will be impacted by this. How, for example, can EPA implement their non discretionary duties of oversight to Clean Water Act there is no more Environmental Quality Board to handle public participation for water quality certification process?

RECOMMENDATIONS: Investigate how Federal Agencies can implement and enforce their non-discretionary duties of oversight within the definition of the new permitting law, and with most local environmental agencies being eliminated.

Conclusion: These comments are not meant to be negative, but instead an identification of problems to be solved. They are meant to be a call to action to identify and address some local problems impacting our reefs. They are meant to illustrate that there is opportunity within the framework of existing laws that requires your political will directed towards the implementation and enforcement to protect the many threatened and endangered species, as opposed to the failed approach of deal making with wealthy developers now destroying and privatizing coastal resources of Puerto Rico. They are meant to request future communication with Task Force members, to provide additional documentation and information until problems like the impacts from sewage discharge, dirt road erosion or anchoring of cruise boats are meaningfully addressed and solutions implemented based on the best available scientific information.

Respectfully,

A handwritten signature in black ink, appearing to read 'MA Lucking', with a long, sweeping flourish extending to the right.

Mary Ann Lucking
Director

c. Jane Lubchenco