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January 16<sup>th</sup>, 2025

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**SUBJECT: REQUEST FOR IMMEDIATE INTERVENTION TO PUT A FINAL STOP TO THE CONTINUOUS ENVIRONMENTAL CRIMES COMMITTED IN THE NATURAL RESERVE LA PARGUERA RECREATIONAL AREA**

La Parguera was designated a natural reserve on September 20, 1979. It has one of the largest coastal mangrove systems in Puerto Rico, as well as extensive salt marshes along the coast. **See Addendum 1.** The reserve's coral reefs and marine prairies support a diverse fish community and are important for local fishing. It is home to one of the three bioluminescent bays in Puerto Rico. It is also home to many endangered species, such as manatees; hawksbill, leatherback, and green turtles; as well as brown pelicans, and yellow-shoulder blackbirds. **See Addendum 2.**

From 1930 to 1950, concessions were made for fishermen to build five small "casetas" (wooden structures on stilts) on the shore within La Parguera, to store their fishing gear and tools. These structures were only accessible by boat. Although they occupied public domain, they were permitted due to their exclusive use for the purpose of marine commerce. In the 1960's these small structures multiplied and were illegally expanded. The identity of the occupants shifted from fishermen to wealthy individuals. Their use also shifted illegally from storing fishing gear to vacation use. As of today, there are over 100 of these illegal structures all along La Parguera's coast.

On June 13<sup>th</sup>, 1978, the U.S. Army Corp of Engineers (USACE) and the Commonwealth of Puerto Rico signed "La Parguera Recreational Area Memorandum of Understanding between the Commonwealth of Puerto Rico and the U.S. Army Corps of Engineers". The objectives for this memorandum were: to establish guidelines for the preservation and best use of the natural environment of the La Parguera area in the Municipality of Lajas, and to develop the La Parguera

coastal areas into a recreational community **for the use and enjoyment of all people**, it also prohibited the issuance of permits for private structures surrounding the offshore islands and cays.

On January 16<sup>th</sup>, 1981, the memorandum was amended to allow the issuance of permits for private structures with self-contained waste disposal systems for liquid and solid wastes **for the remainder of the 12-year period that began on December 9<sup>th</sup>, 1979**. After this period, structures on and around offshore cays were to be **totally removed** by the Commonwealth of Puerto Rico. **See Addendum 3.**

During these 12 years, owners of private structures with the means to acquire and install the required waste disposal systems were able to continue occupying the public areas with their private structures. After this 12-year period, the Commonwealth failed to enforce the removal of the structures with self-contained disposal systems, which are continuously rebuilt, improved, and expanded. Examples of these developments include: (1) the backfill of wetlands and salt marshes for the construction of parking areas for private use within the confines of the Natural Reserve, without USACE permits; (2) constructions and expansions of existing structures; (3) mangrove cutting for the expansion of structures and accesses; (4) illegal docking; (5) destruction of the habitats of endangered protected species; (6) petrol storage and leakage; (6) waste-water discharge; among others (**See Addendum 4**) Additionally, the breach of this memorandum, has allowed wealthy private individuals to generate rent while privatizing public spaces, and excluding locals, as well as underprivileged individuals from publicly owned land.

Forty years after its approval, as a result of the lack of action, the Natural Reserve has experienced: (1) a reduction in the mangrove area; (2) reduction of wetland and salt marsh areas; (3) direct impact to the bioluminescent bay, (4) the destruction of habitats of endangered species, (5) increase in use of watercrafts, resulting in the slaughtering of endangered sea animals (**see Addendum 5**), among others. To add insult to injury, on January 9<sup>th</sup> of this year, the recently nominated Secretary of the Natural Resources Department, Waldemar Quiles Pérez, signed Administrative Order 01-2025, which orders for the collection of imposed duties for the private use of public land and water in the Natural Reserve's protected area, as well as allowing for reconstruction and improvements of these illegal properties, boldly and blatantly ignoring the memorandum.

The actions of these wealthy squatters alter the chemical, physical and biological integrity of the Nation's waters, violating the Clean Water Act and the Essential Fish Habitat Act, while destroying mangroves, wetlands, etc. They are also in violation of the Rivers and Harbors Act, which prohibits the construction of structures within U.S. waters without federal permits and in violation of FEMA regulations, given that they are built on flood zones. These statues all apply to Puerto Rico due to the Supremacy Clause<sup>1</sup> of the Constitution of the United States.

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<sup>1</sup> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and

The intended privatized use of the waters of La Parguera for the exclusive use of these wealthy individuals violates the following statutes:

- (1) Foraker Act of 1900, which established that the current laws and orders of Puerto Rico would continue to be the law of the land, unless amended.<sup>2</sup>
- (2) Jones Act of 1917, which established that all U.S. laws for the protection and improvement of the navigable waters of the U.S., and for the conservation of the navigation and commerce interests will apply to Puerto Rico.
- (3) Law of Federal Relations of 1950, which ratified that all U.S. laws for the protection and improvement of the navigable waters of the U.S., and for the conservation of the navigation and commerce interests apply to Puerto Rico.
- (4) Puerto Rico v. Zoe Colocotroni, 456 F. Supp., 1327 (1978), confirms the Commonwealth's dominion and jurisdiction over navigable waters, submerged lands and their resources, title to all beaches and to maritime terrestrial zone abutting navigable waters and **in particular to mangrove areas** which are part of the same.
- (5) Law of Ports and Docks of Puerto Rico (23 L.P.R.A. 2101), which establishes the territorial and jurisdictional limits of Puerto Rico by defining "maritime terrestrial zone".

As an appointed member of the Senate of Puerto Rico, I request your intervention in this matter and request an order to the Department of Natural Resources of Puerto Rico to complete their end of the bargain and finally **remove all structures** on and around offshore cays in the La Parguera Natural Reserve, as originally established in the Memorandum of Understanding of 1979. This will guarantee public domain and access to all public, regardless of their economic stature, as well as compliance with the Clean Water Act, the Essential Fish Habitat Act, the Rivers and Harbors Act, and FEMA regulations. This will also ensure compliance with local laws and regulations.

It would be catastrophic for Puerto Rico that, what you categorize as an environmental crime in Bahía Jobos in the municipality of Salinas, is tolerated and rewarded in the La Parguera Natural Reserve. Our people will not tolerate double standards any longer.

Sincerely yours,

Eliezer Molina Pérez  
Senator at Large  
Commonwealth of Puerto Rico

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the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding", U.S. Const. art. VI, cl. 2.

<sup>2</sup> The current law in 1900 was the Port's Act of 1880, which established that the coastal waters, beaches, accessions, and right of way are of **national domain** and **public use**.