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Fla. Resort Faces Suit Alleging Harm To Hatching Sea Turtles

By Nathan Hale

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Two conservation groups gave notice Thursday that they intend to sue a Fort Lauderdale, Florida, resort and marina for violating the Endangered Species Act by harming nesting and hatching sea turtles through the use of illegal lighting.

Sea Turtle Oversight Protection and the Center for Biological Diversity said in their letter, giving the required 60-day notice before filing suit under the ESA, that they had turned to litigation as a “last resort” after years of trying to obtain cooperation from the Bahia Mar Resort and Marina and the Hilton DoubleTree hotel.

“The Bahia Mar Resort and Marina and the Hilton DoubleTree hotel have ignored their responsibility to protect sea turtles from artificial light on their properties for far too long,” Richard WhiteCloud, president of Sea Turtle Oversight Protection, said in a statement.

“The lights injure and harm sea turtles and their hatchlings and Bahia Mar Resort and Marina and the Hilton DoubleTree hotel must be held accountable for the thousands of sea turtles that have been harmed,” he added.

Indoor and outdoor lights at the resort that are visible from the beach across the street have disoriented thousands of protected loggerhead and green sea turtle hatchlings since 2015, leading them to crawl away from the ocean, according to the notice. Without human assistance, this increases their risk of dying either as a result of predators, vehicle strikes, dehydration or fatigue, the groups said.

The groups addressed their notice to potential defendants Rahn Bahia Mar LLC, Hilton Hotels Corp. and Suntex Marinas, which operate the resort and marina, as well as officials for various federal government agencies with possible interest in the matter.

Sea Turtle Oversight Protection is a Fort Lauderdale-based, all-volunteer organization focused on saving disoriented sea turtle hatchlings, and the Center for Biological Diversity is a national nonprofit conservation group, based in St. Petersburg, Florida, featuring more than 1.7 million members and online activists, according to the notice.

The groups say they have extended repeated requests and warnings to the Bahia Mar operators, including filing 30 complaints about the lighting with the city of Fort Lauderdale, which issued citations for violations in 2016 and 2019.

The resort is located on city-owned land, the notice said.

Most recently, the conservation groups sent a letter to the Bahia Mar operators on June 10 detailing the alleged violations. They say they requested a reply by July 1 but have received none to date.

Photos included in the notice show various lights on the resort structures that are visible from the beach, including blue lights running up the full height of the façade, unshielded yellow lights in stairwells, a bright white Bahia Mar sign high on the façade, and lights from occupied guest rooms with the shades open.

Some of the photos show that the hotel remained lit up — including with the decorative blue lights, which are most harmful to the turtles — even while it was closed for a period of time this year due to the COVID-19 pandemic.

The groups say they have documented 3,853 turtle hatchlings that were disoriented by the resort's lights since 2016, including 698 just this year. The resort operators commit a violation of Section 9 of the Endangered Species Act for each loggerhead or green sea turtle hatching that becomes disoriented, they said.

Both species of turtles have been listed as either endangered or threatened under the Endangered Species Act since 1978, according to the notice.

According to the groups, the lighting violations can be addressed by making simple and inexpensive changes, such as installing shields on outdoor lighting; using wildlife-certified, amber-colored LED bulbs; turning off nonessential lights during turtle nesting season; and encouraging guests to close their drapes at night.

The groups remain open to collaborating with the Bahia Mar operators to address what they say are easily correctable violations, and left the door open to working out an agreement to avoid litigation if more than 60 days are needed to implement remedies. However, they will seek relief in court absent such an agreement, they said in the notice.

Jaclyn Lopez, an attorney with the Center for Biological Diversity, said Friday that she could not confirm where the potential lawsuit would be filed.

“We’re hopeful Bahia Mar will work with us to remedy these issues so that baby sea turtles can make their way to the ocean and start their miraculous lives without the harm and stress of disorienting from artificial lights,” she told Law360.

Reached Friday, the Bahia Mar’s owner and Hilton expressed their commitment to protecting the sea turtles and other ocean wildlife near the property, which they noted is bordered by water on four sides.

“Upon notification of a possible concern, we took immediate action and have implemented several steps to reinforce our commitment to sea turtle protection through the nesting process and their journey to the sea, which includes adjusting certain exterior lights, creating a guest awareness program to engage visitors to support our efforts and eliminating plastic straw use, among other actions,” Bahia Mar General Manager Lisa Namour said.

Sea Turtle Oversight Protection and the Center for Biological Diversity are represented by Claire Loeb Davis of Animal and Earth Advocates PLLC and Jaclyn Lopez of the Center for Biological Diversity.

--Editing by Daniel King.