UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

MAR 24 2017

Certified Mail – Return Receipt Requested

Honorable José E. Avilés
Mayor
Municipality of Moca
P. O. Box 1571
Moca, Puerto Rico 00676

Re: Notice of Coverage under the National Pollutant Discharge Elimination System
Small Municipal Separate Storm Sewer System General Permit
Permit Number: **PRR040025**

Dear Mayor Avilés:

This letter acknowledges that the Municipality of Moca (Municipality) has submitted a complete Notice of Intent (NOI) document to be covered under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (Small MS4 GP) in urbanized areas (PRR040000) in Puerto Rico.

The U. S. Environmental Protection Agency (EPA) posted the Municipality's NOI on our website for a thirty (30) days comment period on September 7, 2016. On October 7, 2016, EPA received comments to the NOI. EPA evaluated the comments received, and prepared a response to comments, which is enclosed (Attachment I). Coverage under this general permit has been granted as of **March 1, 2017.**

The eligibility for coverage under the Small MS4 GP is based on the validity of the certification you provided on the NOI. Your signature certifies that you have read, understood and are implementing all of the applicable requirements of the Small MS GP. An important aspect of this certification requires that you correctly determine whether you are eligible for coverage under this Small MS4 GP.

In addition, the Small MS4 General Permit requires existing permittees to revise and update the current municipal Stormwater Management Program (SWMP) for the Municipality and begin implementing it. The modified SWMP must be submitted to the undersigned attention, one (1) year from the date of authorization of coverage under this general permit, by **March 1, 2018**. The Small MS GP outlines important measurable goals, storm sewer system mapping, detection and addressing non-storm water discharges, inspections and record keeping requirements, among others. An electronic copy of the Small MS4 GP and additional guidance materials can be viewed and downloaded at https://www.epa.gov/region02/water/npdes/permits/index.html.

If you have questions regarding the stormwater program or your responsibilities under the Small MS4 GP, please call Sergio Bosques at (787) 977-5838 or via email at bosques.sergio@epa.gov, or Yolianne Maclay at (787) 977-5849 or via email at maclay.yolianne@epa.gov.

Sincerely,

Carmen R. Guerrero-Pérez
Director
Caribbean Environmental Protection Division

Enclsoure

cc: Eng. Félix Méndez, Acting Director, Planning and Development Department, Municipality of Moca (via email)
Angel Meléndez, EQB, Water Quality Area, Acting Director (via email)

ATTACHMENT I

RESPONSE TO COMMENTS ON
NOTICE OF INTENT FORM FOR
MUNCIPALITY OF MOCA (PRR040025)

On September 7, 2016, the United States Environmental Protection Agency (EPA), Region 2, posted on its website page (www.epa.gov/region02/water/npdes/permits/index.html), a Notice of Intent (NOI) form for coverage under the National Pollutant Discharge Elimination System (NPDES) Small Municipal Separate Storm Sewer System General Permit (PRR040000) for the Municipality of Moca (Moca) stormwater discharges from its storm sewer system within urbanized areas. The public comment period for the NOI expired on October 7, 2016.

According to 40 Code of Federal Regulations (CFR) §124.17, at the time that any final permit decision is issued under 40 CFR § 124.15, EPA shall issue a response to comments. The response to comments shall briefly describe and respond to all significant comments on the NOI raised during the public comment period.

On October 4, 2016, Mr. Michael Millán submitted to an EPA official, via an electronic mail, comments on the NOI submitted by Moca. EPA did not receive any other comments concerning this NOI.

All comments received have been reviewed and considered in this final general permit coverage decision. A discussion and response to the comments received is as follows:

Comment 1: Endangered Species Act (ESA) determination

Before submitting a notice of intent (NOI) for coverage by this permit, applicants must determine whether they meet the ESA eligibility criteria.

Moca failed to meet the ESA eligibility criteria. In the NOI, Moca indicated that Endangered Species Act (ESA) determination was completed based Criterion A - No endangered or threatened species or critical habitat are in proximity to the storm water discharges or discharge related activities. To certify eligibility under Criterion A, for coverage by the permit, can only be made if you can answer "No" to all of the following questions:

- *Are there any Endangered Species in your Municipality? Are there any Critical Habitats in your Municipality?*
- *Are there any Endangered Species or Critical Habitat in proximity to your storm water discharges?*

There are no critical habitats in Moca but there are 45 species listed as Endangered or Threatened [1]. Based on the information provided it is impossible to determine if there any Endangered Species in proximity to your storm water discharges.

Based on the above it can be concluded that Moca could not certify eligibility under Criterion A. as such, it provided incorrect information in the NOI and did not satisfy the ESA eligibility criteria.

Response 1:

On December 8, 1999, EPA promulgated the NPDES stormwater Phase II Final Rule that requires nationwide NPDES permit coverage of all operators of small MS4s that are located within the boundaries of a Bureau of the Census-defined "urbanized area" (UA) based on the latest decennial Census. Small MS4s have maps of urbanized areas from the 2010 Census data. EPA performed an analysis of the urbanized area for Moca using the U.S. Fish and Wildlife website known as "IPaC" (Information, Planning and Conservation System - www.fws.gov/ipac).

Moca had performed a species assessment with a biologist regarding ESA determination. During EPA's review of IPaC, EPA was able to identify the Puerto Rican Boa (*Epicrates inornatus)* within the urbanized area of Moca. EPA notified Moca on the findings thru IPaC. After this notice, Moca has reassessed, reviewed and modified its determination concerning its ESA eligibility. The criteria for the for the ESO eligibility determination has been amended, and now reflects a finding of "unlikely to adversely affect". As such, Moca met the eligibility requirements concerning ESA.

Comment 2: National Historic Preservation Act (NHPA) determination

Before submitting a notice of intent (NOI) for coverage by this permit, applicants must determine whether they meet the historic properties eligibility criteria. In the NOI, Moca indicated that historic properties eligibility criteria determination was completed based Criterion B - There are no historic properties or properties eligible for listing in the National Register of Historic Places within the area of potential effects (APE). However, there is one registered historic property (Hacienda Iruena Labaddie) in Moca[2]. The data provided in the NOI is inadequate to conclude that none of the historic properties are within the area of potential effects. Since this property is within the Pueblo Ward we can only conclude that they are located within the area of potential effects.

Based on the above it can be concluded that Moca could not certify eligibility under Criterion B. As such, it provided incorrect information in the NOI and did not satisfy the historic properties eligibility criteria.

Response 2:

Similar to the previous response (Response 1), EPA performed an analysis of the urbanized area for Moca, but using EPA's NEPAssist tool (www.epa.gov/nepa/nepassist) on historical properties. The NEPAssist is a tool that facilitates the environmental review process and project planning in relation to environmental considerations. The web-based application draws environmental data dynamically from EPA Geographic Information System databases and web services, and provides immediate screening of environmental assessment indicators for a user-defined area of interest. These features contribute to a streamlined review process that potentially raises important environmental issues at the earliest stages of project development.

Although, Hacienda Iruena Labadie is a historical property in Moca, EPA's review of NEPAssist revealed no determination of historic properties within the urbanized area of Moca. As such, EPA determined that Moca met the eligibility criteria for historic properties.

Comment 3: Maps/Boundaries - Item 1

Item 1 of Part D (Maps/Boundaries) requires that the Municipality provides a narrative description of regulated boundaries. Moca indicated that the geographic boundaries of the MS4 are the municipality limits and the urban growth boundary (UGB). The description provided fails to describe the MS4 infrastructure and the areas it covers. Does the MS4 includes all wards within the municipality? Is the MS4 limited to urban areas only?

Based on the above it can be concluded that Moca only provided limited information related to the MS4 infrastructure and boundaries. It can be concluded that Moca provided incomplete information in the NOI and did not satisfy the Item 1 of Part D criteria.

Response 3:

The NPDES Stormwater Phase II regulations codified at 40 CFR § 122.32 require small MS4s to implement its program in the urbanized areas. However, the regulated MS4s may decide to implement their Stormwater Management Programs (SWMPs) outside the boundaries of the urbanized areas.

Moca is implementing the MS4 Program within its urbanized area. Moca has developed a large scale size and detailed map, which is available to the public at Moca's Planning and Development Department Office (MPDD). This map provides more information and data concerning the receiving waters, boundaries and infrastructure.

Also, EPA reviewed the annual reports that Moca has submitted to EPA pursuant to Part 5 of the 2006 NPDES Small MS4 General Permit, and found that data on the maps have progressively increased throughout the years. Further, as the Moca MS4 Program continues to be implemented, EPA expects revisions to the maps.

Based on the above, EPA has determined Moca met the requirements in Part D of the NOI.

Comment 4: Maps/Boundaries - Item 2

Item 2 of Part D (Maps/Boundaries) requires that the Municipality includes a location map showing the pertinent city, town, wards, or boundaries, the boundaries of the small MS4, including any surface water body(ies), and the UA when applicable.

The map included in the NOI fails to meet the minimum requirements of the NOI. The map only depicts the municipal boundaries and two (2) urban areas. It lacks the wards boundaries, urbanized areas, MS4 boundaries and water bodies within the urbanized areas. Also, the map in in a scale that makes it almost impossible to read.

By the way the Moca urbanized area includes the following wards: Barrio Pueblo, Cuchillas, Voladores, and Capá. Also, the urbanized area includes portions of Cruz, Marías, Naranjito, Cerro Gordo, Plata, Centro, Aceitunas, and Rochas wards.

Response 4:

Based upon the response provided in Response 3 above, EPA has determined that Moca met the requirement in Part D of the NOI.

Comment 5: MS4 Infrastructure

Item 1 of Part E (MS-4 infrastructure) requires that Moca included in the NOI a map depicting the locations of all outfalls within the urbanized are map. Moca did not include the map with the NOI, it only mare reference that a copy of the map is available in the municipality.

The outfall maps available at the municipality only include two urban areas depicted in the map included in the NOI. It seems that there is a confusion as to the applicability of the MS4 within the municipality. The MS4 permit applies to all urbanized areas within the municipality and not only to urban areas. Moca indicated that 100% of the outfalls were identified. It is impossible to claim 100% outfall identification when only outfalls within the two (2) urban areas depicted in the map are identified as MS4. What about the outfalls within the remaining urbanized area? Is there no MS4 within Cuchillas, Voladores, Capá, Cruz, Marías, Naranjito, Cerro Gordo, Plata, Centro, Aceitunas, and Rochas wards?

The location map included in Moca's NOI fail to show the pertinent city, town, wards, or boundaries, the boundaries of the small MS4, including any surface water body (ies), and the UA when applicable. Once again, Moca only included partial information in the NOI.

Response 5:

An urbanized area is a land area comprising one or more places — central place(s) — and the adjacent densely settled surrounding area — urban fringe — that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. Moca's urbanized area is adopted from the U.S. Census Bureau maps of 2010. The MS4s urbanized areas expand every ten (10) years based on the Census Bureau' survey. More information on urbanized area maps is available at EPA's website: www.epa.gov/npdes/urbanized-area-maps-npdes-ms4-phase-ii-stormwater-permits.

Part 4.2.3 of the 2006 Small MS4 general permit required MS4s to develop a map showing the outfalls and location into the waterbodies. Moca's performed a municipal outfall inventory within the identified 2010 Census Bureau urbanized area map. The outfall inventory does not include other outfalls that fall under the jurisdiction of other agencies. As stated in Response 3, a detailed map is available at MPDD.

As such, EPA has determined Moca met the requirements in Part D of the NOI.

Comment 6: Receiving Waters

Part G of the NOI requires a list of the names of all surface waterbody segments to which your MS4 discharges and for each waterbody segment the number of outfalls discharging into it and, if applicable, any impairments. Moca only included information related to thirty-two (32) outfalls, located within Pueblo Ward urban area, that discharge into The Culebrinas River. Once more Moca fail to include complete and accurate information in the NOI. With the amount of water bodies within the municipality and considering the municipal territorial extension it is impossible that the MS4 discharges only through thirty-two (32) outfalls and only to the Culebrinas River. It appears that Moca understands that the MS4 permit applies only to urban areas and not to all the urbanized areas within the municipality.

Response 6:

Similar to Response 2, EPA performed an analysis within the urbanized area for Moca using EPA's NEPAssist tool for waterbodies. The Culebrina River is the named waterbody within Moca's urbanized area.

Since Moca is implementing its program within its urbanized area, they have identified the Culebrinas River as the receiving waterbody of their stormwater discharges from their storm sewer system. In addition, the outfall surveying is a continuous ongoing process within the urbanized area which expands each ten (10) years with each cycle of the Census Bureau survey.

As such, EPA has determined Moca met the requirements in Part G of the NOI.

Comment 7: Summary of SWMP under 2006 Small MS4 General Permit

Part H (Summary of SWMP) Moca proposes to eliminate the awareness survey from the SWMP. This makes no sense. How is the municipality going to estimate the effectiveness of the program it the survey is eliminated?

Response 7:

The SWMP requirements in the Small MS4s General Permit requires MS4s to continue to control stormwater discharges from the municipal sewer system in a manner designed to reduce pollutants to the Maximum Extent Practicable (MEP), and to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). EPA believes that the Small MS4 General Permit's minimum control measures and best management practices (BMPs) should be guided by its equitable share based on a variety of considerations, such as cost effectiveness, proportionate contribution of pollutants, and ability to reasonably achieve pollutant reductions.

EPA envisions that the application of the MEP standard as an iterative process. MEP should continually adapt to current conditions and BMP effectiveness and should strive to attain water quality standards. Successive iterations on the combination of BMPs and of measurable goals will drive the objective of assuring maintenance of water quality standards. After successive permit terms and of implementing the six minimum control measures, if there is still water quality impairment associated with discharges from the MS4, the permittee must expand or better tailor its BMPs within the scope of the six minimum

control measures for each permit term. Further, EPA envisions that this process may take two to three permit terms.

Moca may, at its own discretion, implement alternative measure(s) to achieve the goals in Moca's SWMP. As such, EPA has determined Moca met the requirements in Part H of the NOI.

Comment 8: 2016 SWMP Summary

Part I (2016 SWMP) Moca proposes under MBM-6 a BMP to sweep streets within urbanized areas but it limits its implementation to the town center main street and sidewalks. Once again, it appears that Moca understands that the MS4 permit applies only to urban areas and not to all the urbanized areas within the municipality.

Response 8:

Each BMP has been selected and will be implemented on the conditions Moca determined to be effective to meet the requirements of the Small MS4 General Permit, and to reduce the discharge pollutants into the receiving water.

EPA has determined that Moca met the requirements in Part I of the NOI.