NPDES PERMIT NO. PR0026743

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, 33 U.S.C. §1251 et. seq. (the "Act"),

Puerto Rico Aqueduct and Sewer Authority
P.O. Box 7066
Barrio Obrero Station
San Juan, Puerto Rico 00916

hereinafter referred to as "the permittee" is authorized to discharge from a facility named Gurabo Water Treatment Plant located at:

#1 Steet, Jardines de Gurabo
Gurabo, Puerto Rico 00778

to receiving waters named:

Gurabo River

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II hereof. All references to Title 40 of the Code of Federal Regulations are to regulations that are in effect on the effective date of this permit, including all amendments thereto published in the Federal Register. Unless otherwise specified herein, all terms are defined as provided in the applicable regulations under Title 40 of the Code of Federal Regulations.

This permit shall become effective on **August 1, 2013**, which is the Effective Date of Permit (EDP).

This permit and the authorization to discharge shall expire at midnight, **July 31, 2018.**

Signed this April 25th day of 2013,

for
José C. Font
Director
Caribbean Environmental
Protection Division

TABLE A-1 EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the EDP and lasting through the expiration date of the permit, the permittee is authorized to discharge from outfall serial number 001 (filters and settling tanks washwater). Such discharge shall be limited and monitored by the permittee as specified below:

Receiving Water Classification: SD

Effluent Characteristics	Gross Discharge Limitations		Monitoring Requirements	
	Monthly Avg.	Daily Max	Measurements Frequency	Sample Type
BOD_5 (mg/L) [1,2,3]		17.0	Monthly	Grab
Chlorides (mg/L) [2,3]		250	Quarterly	Grab
Color (Pt-Co Units) [2,3]		15	Quarterly	Grab
Copper (Cu) (µg/L) [2,3]		8	Monthly	Grab
Cyanide (CN)(µg/L) ξ [2,3]		5.2	Quarterly	Grab
Dissolved Oxygen (mg/L) [1,2,3]		Shall contain not less than 5.0 mg/L.	Daily	Grab
Fecal Coliforms (colonies/100 mL) [1,2,3]			Monthly	Grab
Flow m^3/day (MGD) β [1,3,4]		1,090.2 (0.288)	Continuous Recording or Estimated	
Lead (Pb) (µg/L) [2,3]		2.3	Monthly	Grab
Nitrate plus Nitrites (as N) (µg/L) [2,3,4] @		35,000	Monthly	Grab

Effluent Characteristics	Gross Discharge Limitations		Monitoring Requirements	
	Monthly Avg.	Daily Max	Measurements Frequency	Sample Type
pH (SU) [2,3]	Shall always lie between 6.0 – 9.0.		Daily	Grab
Residual Chlorine (mg/L) γ[2,3]		0.50	Daily	Grab
Solids and Other Matters [2,3]	The waters of Puerto Rico shall not contain floating debris, scum or other floating materials attributable to discharge in amounts sufficient to be unsightly or deleterious to the existing or designed uses of the water body.		----	----
Sulfates (SO_4) (mg/L) [2,3]		----	α	Grab
Sulfide (Undissociated H_2S) (µg/L) δ[2,3]		----	α	Grab
Surfactants (as MBAS) (µg/L) [1,2,3]		----	Quarterly	Grab
Suspended, Colloidal or Settleable Solids (mL/L) [1,2,3]	Solids from wastewaters source shall not cause deposition in, or be deleterious to the existing or designated uses of the waters.		Daily	Grab
Taste and Odor-producing Substances [2,3]	Shall not be present in amounts that will render any undesirable taste and/or to edible aquatic life.		---	---

Effluent Characteristics	Gross Discharge Limitations		Monitoring Requirements	
	Monthly Avg.	Daily Max	Measurements Frequency	Sample Type
Temperature °F (°C) [2,3]	Except for natural causes no heat may be added to the waters of Puerto Rico, which would cause the temperature of any site to exceed 90 °F (32.2°C).		Daily	Grab
Total Ammonia (NH_3) (mg/l) [2,3]		---	Monthly	Grab
Total Coliforms (colonies/100 mL) [1,2,3]	The coliforms geometric mean of a series of representative samples (at least five samples) of the water taken sequentially shall not exceed 10,000 colonies/100 mL.		Monthly	Grab
Total Dissolved Solids (mg/l)) [2,3]		500	Quarterly	Grab
Total Phosphorus (P) (mg/L) [2,3]		1.00	Monthly	Grab
Turbidity (NTU) [2,3]		50	Monthly	Grab
Zinc (Zn) (µg/L) [2,3]		96.65	Monthly	Grab
Special Conditions	See attached sheet, which contains special conditions that constitute part of this certification.		---	---

To comply with the monitoring requirements specified above, samples shall be taken at the outfall of discharge serial number 001.

All flow measurements shall achieve accuracy within the range of plus or minus 10%.

γ See Special Condition 6 and 7.
δ See Special Condition 10.
β See Special Condition 11.
ξ The samples shall be analyzed using the method approved by EPA in letter of February 20, 2007.

α The permittee shall implement a monthly monitoring program using the analytical method approved by EPA with the lowest possible detection level, in accordance with Rule 1306.2

(C) of the PRWQSR as amended, for one (1) year period, after which they will be conducted annually. The monitoring program shall commence no later than thirty (30) days after the EDP. The results of the monitoring program shall be submitted to EQB and EPA-Region 2 no later than sixty (60) days of completion of the one (1) year monitoring program. Based on the evaluation of the results obtained, EQB will determine if an effluent limitation is necessary for this parameter. In such case the WQC will be reopened to include the applicable effluent limitation.

1, 2, 3 and 4 see page 6 of the Special Conditions

A. SPECIAL CONDITIONS

These special conditions are an integral part of the permit:

1. The flow of discharge 001 shall not exceed the limitation of 1,090.2 m^3/day (0.288 MGD) as daily maximum. No increase in flow shall be authorized without a recertification from the Puerto Rico Environmental Quality Board (EQB). [1,4]

2. The discharge 001 will consist of filters backwashes and sedimentation tanks drains treated in the Sludge Treatment System (STS) constructed for these purposes.

3. No changes in the design or capacity of the STS will be permitted without the previous authorization of EQB. [4]

4. Prior to the construction of any additional treatment system, or the modification of the existing one, the permitee shall obtain the approval from EQB of the engineering report, plans and specifications. [4]

5. The permittee shall install, maintain and operate all water pollution control equipment in such manner as to be in compliance with the applicable Rules and Regulations. [1,3]

6. No toxic substances shall be discharged, in toxic concentrations, other than those allowed as specified in the NPDES permit. Those toxic substances included in the Permit Renewal Application, but not regulated by the permit, shall not exceed those concentrations as specified in the applicable regulatory limitations. [2,3]

7. The waters of Puerto Rico shall not contain any substance, attributable to discharge 001, at such concentration which, either alone or as result of synergistic effects with other substances, is toxic or produces undesirable physiological responses in humans, fish or other fauna or flora. [2]

8. All sample collection, preservation, and analysis shall be carried out in accordance with the 40 CFR Part 136. A licensed chemist authorized to practice the profession in Puerto Rico shall certify all chemical analyses. A licensed microbiologist or a medical technician authorized to practice the profession in Puerto Rico shall certify all bacteriological tests. [1,3]

9. The permittee shall use the analytical method approved by the Environmental Protection Agency (EPA), with the lowest possible detection limit, in accordance with the 40 CFR, Part 136 for Sulfide (as S). Also, the permittee shall complete the calculations specified in Method 4500-S^{-2} F, Calculation of Un-ionized Hydrogen Sulfide, of Standards Methods 18th Edition, 1992, to determine the concentration of undissociated H_2S. If the sample results of Dissolved Sulfide are below the detection limit of the approved EPA method established in the 40 CFR, Part 136, then, the concentration of undissociated H_2S shall be reported as "below detection limit". [1,3]

10. Within thirty (30) days after the Effective Date of the NPDES Permit (EDP), the permittee shall submit for EQB evaluation and approval, a method to measure or estimate flow at discharge 001. If a flow-measuring device is installed, it must be periodically calibrated and properly maintained. Calibration and maintenance records must be kept in compliance with the applicable Rules and Regulations. [3,4]

11. The solid wastes (sludge, screenings and grit) generated due to the treatment system operation shall be:

    a. Disposed in compliance with the applicable requirements established in the 40 CFR Part 257. A semiannual report shall be submitted to EQB and EPA notifying the method or methods used to dispose the solid wastes generated in the facility. Also, copy of the approval or permit applicable to the disposal method used shall be submitted, if any.

    b. Transported adequately in such way that access is not gained to any body of water or soil. In the event of a spill of solid waste on land or into a body of water, the permittee shall notify the Point Sources Permits Division of EQB's Water Quality Area in the following manners:

        1) By telephone communication within a term no longer than twenty four (24) hours after the spill (787-767-8073).

        2) By letter, within a term no longer than five (5) days after the spill.

        These notifications shall include the following information:

        a) Spill material
        b) Spill volume
        c) Measures taken to prevent the spill material to gain access to any body of water

    This special condition does not relieve the permittee from its responsibility to obtain the corresponding permits from the EQB's Solid Wastes Program and other state and federal agencies, if any. [4]

12. A log book should be kept for the material removed from the permittee's facility (solids wastes as sludge, screenings and grit) detailing the following items:

    a. Removed material, date and source of it.
    b. Approximate volume and weight.
    c. Method by which it is removed and transported.
    d. Final disposal and location.
    e. Person that offers the service.

A copy of the Non Hazardous Solid Waste Collection and Transportation Service permit issued by the authorized official from the EQB should be attached to the log book. [3]

13. The sampling point for discharge 001 shall be located immediately after the primary flow measuring device of the effluent of the treatment system.

14. The sampling point for discharge 001 shall be labeled with a 18 inches X 12 inches (minimum dimension) sign that reads as follows:

    "Punto de Muestreo para la Descarga 001"

15. All water or wastewaters treatment facilities, whether publicly or privately owned, must be operated by a person licensed by the Potable Water and Wastewaters Treatment Plants Operators Examining Board of the Commonwealth of Puerto Rico. [3]

16. The permittee shall conduct quarterly acute toxicity tests, for a period of one (1) year, of its wastewater discharge through outfall serial number 001 in accordance with the following:

    a. The toxicity tests shall be conducted in accordance with the EPA publication, EPA-821-R-02-012 Methods for *Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (Fifth Edition), October 2002, or the most recent edition of this publication, if such edition is available.

    b. The tests shall provide a measure of the acute toxicity as determined by the wastewater concentration, which cause 50 percent mortality of the organisms over a 48 hour period. Test results shall be expressed in terms of *Lethal Concentration* (LC) and reported as 48 hour LC50.

    c. The test species should be the *Fathead Minnow* (Pimephales promelas) and *Cladocera* (Daphnia magna). The tests should be static renewal type.

    d. A procedure report shall be submitted to both agencies, EQB and EPA, ninety (90) days after the effective date of the NPDES permit (EDP). The following information shall be included in the procedure report:

        1. An identification of the organizations responsible for conducting the test and the species to be tested.

        2. A detailed description of the methodology to be utilized in the conduct of the tests, including equipment, sample collection, dilution water and source of test organisms.

        3. A schematic diagram which depicts the effluent sampling location. The diagram shall indicate the location of effluent sampling in relation to

wastewaters treatment facility and discharge monitoring point.

e. The tests shall be conducted quarterly for a period of one (1) year and shall commence not later than one hundred eighty (180) days after EDP. The results shall be submitted to EPA Region II and EQB within sixty (60) days of completion of each test. Based on a review of the test results, EPA or the EQB may require additional toxicity tests, including chronic toxicity analyses. In addition to submitting the procedures report and test results to the addresses listed in Part I.B. of this permit, results shall be submitted to:

MUNICIPAL WATER PROGRAM BRANCH, CHIEF
CARIBBEAN ENVIRONMENTAL PROTECTION AGENCY
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II
CITY VIEW PLAZA II, #48 RD, 165, KM 1.2
GUAYNABO, PUERTO RICO 00968-8069

f. Reopener Clause for Toxicity Testing Requirements
Based on a review of the test results, the Regional Administrator of EPA or the EQB can require additional toxicity tests, including chronic tests and toxicity/treatability studies, and may impose toxicity limitations. This permit may be reopened by EPA to include such requirements as enforceable permit conditions.

17. The discharge 001 shall not cause the presence of oil sheen in the receiving water body. [2]

1, 2, 3, and 4 see next page

A. REFERENCES OF SPECIAL CONDITIONS

1. According to Rule 1301 of the Puerto Rico Water Quality Standards Regulation, as amended.

2. According to Rule 1303 of the Puerto Rico Water Quality Standards Regulation, as amended.

3. According to Rule 1306 of the Puerto Rico Water Quality Standards Regulation, as amended.

4. According to the Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended.

B. MONITORING AND REPORTING REQUIREMENTS

1. Monitoring and records. See Part II.B.10.

2. Discharge monitoring reports.

a. See Part II.B.12.d.

b. Monitoring results obtained during the previous month shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on **September 28th, 2013**. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and State Director at the following addresses:

COMPLIANCE ASSISTANCE
PROGRAM SUPPORT BRANCH
REGION II
U.S. ENVIRONMENTAL PROTECTION
AGENCY
290 BROADWAY - 21ST FLOOR
NEW YORK, NEW YORK 10007-1866

DIRECTOR
US EPA REGION II
CARIBBEAN ENVIRONMENTAL
PROTECTION DIVISION
CITY VIEW PLAZA II
#48 RD. 165 KM 1.2
GUAYNABO, PUERTO RICO 00968-8069

ENVIRONMENTAL QUALITY BOARD OF PUERTO RICO
P.O. BOX 11488
SANTURCE, PUERTO RICO 00910
ATTN: WATER QUALITY AREA

3. Twenty-four hour reporting.

a. Pollutants for which the permittee must report violations of maximum daily discharge limitations under paragraph 12.f of Part II.B (40 CFR §122.41(1)(6)(ii)(C)) (24 hour reporting).

A. DEFINITIONS

1. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

2. "Average weekly discharge limitation" means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

3. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

4. "Composite" means a combination of individual (or continuously taken) samples of at least 100 milliliters, collected at periodic intervals over the entire discharge day. The composite must be flow proportional; either the time interval between each sample must be proportional to the discharge flow (i.e. samples of equal volume taken every "X" gallons of flow) or the volume of each sample must be proportional to the discharge flow (i.e. a proportional volume sample taken at constant time intervals). Samples may be collected manually or automatically. For a continuous discharge, a minimum of 24 individual samples shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of less than four (4) hours duration, samples shall be taken at a minimum of 15 minute intervals. For intermittent discharges of more than four (4) hours duration, samples shall be taken at a minimum of 30 minute intervals.

5. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharge over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of pollutant over the day. For purposes of sampling, "daily" means an operating day or 24-hour period.

6. "Director" means the "Regional Administrator" or the "State Director", as the context requires, or an authorized representative. Until the State has an approved State program authorized by EPA under 40 C.F.R. Part 123, "Director" means the Regional Administrator. When there is an approved State program, "Director" normally means the State Director. Even in such circumstances, EPA may retain authority to take certain action (see, for example, 40 C.F.R. 123.1(d), 45 Federal Register 14178, April 1, 1983, on the retention of jurisdiction over permits EPA issued before program approval). If any condition of this permit requires the reporting of information or other actions to both the Regional Administrator and the State Director, regardless of who has permit-issuing authority, the terms "Regional Administrator" and "State Director" will be used in place of "Director".

7. "Discharge Monitoring Report" or "DMR" means the EPA uniform national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees.

8. "Grab" means an individual sample collected in less than 15 minutes.

9. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation).

10. "Maximum daily discharge limitation" means the highest allowable "daily discharge".

11. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).

12. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time, provided:

a. The intake water source must be drawn for the same body of water into which the discharge is made; and

b. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net is that level contained after the pretreatment steps.

13. "Regional Administrator" means the Regional Administrator of Region II of EPA or the authorized representative of the Regional Administrator.

14. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

15. "State Director" means the chief administrative officer of the State water pollution control agency, or the authorized representative of the State Director.

16. "Toxic pollutant" means any of the pollutants listed in 40 C.F.R. §401.15 (45 F.R. 44503, July 30, 1979) and any modification to that list in accordance with Section 307 (a)(1) of the Clean Water Act.

17. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused

by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

18. "Weekly" means every seventh day (the same day of each week) and a normal operating day.

B. GENERAL CONDITIONS

TABLE OF REGULATORY REFERENCES FOR GENERAL CONDITIONS

Note: General Condition language in Part II, Sections B.1 through B.14, and B.17 is based on the **July 1, 2010** Code of Federal Regulations (C.F.R.). Reference to language in the U.S.C. (United States Code) is based on the date of permit issuance.

Section	Section Title	Reference
B.1.	Duty to Comply	40 C.F.R. §122.41(a)
B.2.	Duty to Reapply	40 C.F.R. §122.41(b)
B.3.	Need to Halt or Reduce not a Defense	40 C.F.R. §122.41(c)
B.4.	Duty to Mitigate	40 C.F.R. §122.41(d)
B.5.	Proper operation and maintenance	40 C.F.R. §122.41(e)
B.6.	Permit actions	40 C.F.R. §122.41(f)
B.7.	Property rights	40 C.F.R. §122.41(g)
B.8.	Duty to provide information	40 C.F.R. §122.41(h)
B.9.	Inspection and Entry	40 C.F.R. §122.41(i)
B.10.	Monitoring and records	40 C.F.R. §122.41(j)
B.11.	Signatory requirements	40 C.F.R. §122.41(k)
B.12.	Reporting Requirements	40 C.F.R. §122.41(l)
B.13.	Bypass	40 C.F.R. §122.41(m)
B.14.	Upset	40 C.F.R. §122.41(n)
B.15.	Removed substances	33 U.S.C. §1311
B.16.	Oil and hazardous substance liability	33 U.S.C. §1321
B.17.	Reopener clause for toxic effluent limitations	40 C.F.R. §122.44(b)(1)
B.18.	State laws	33 U.S.C. §1370
B.19.	Availability of information	33 U.S.C. §1318
B.20.	Severability	-

B. GENERAL CONDITIONS

1. Duty to Comply.

a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

b. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

c. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to a civil penalty not to exceed $25,000 per day for each violation (as adjusted by 40 C.F.R. Part 19).

d. The Clean Water Act provides that any person who negligently violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402 of the Clean Water Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to criminal penalties of not less than $2,500 nor more than $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation of the Clean Water Act, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

e. The Clean Water Act provides that any person who knowingly violates Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Clean Water Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Clean Water Act, is subject to criminal penalties of not less than $5,000 nor more than $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation of the Clean Water Act, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

f. Any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318 or 405 of the Clean Water Act, or any permit condition or limitation implementing any of such sections in a

permit issued under section 402 of the Clean Water Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization, as defined at 33 U.S.C. 309(c)(3)(B)(iii), shall, upon conviction be subject to a fine of not more than $1,000,000. In the case of a second or subsequent conviction for a knowing endangerment violation of the Clean Water Act, the maximum punishment shall be doubled with respect to both fine and imprisonment.

g. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Clean Water Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or imprisonment for not more than 2 years, or both. In the case of a second or subsequent conviction, under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

h. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed $10,000 per violation (as adjusted by 40 C.F.R. Part 19), with the maximum amount of any Class I penalty assessed not to exceed $25,000 (as adjusted by 40 C.F.R. Part 19). Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues (as adjusted by 40 C.F.R. Part 19), with the maximum amount of any Class II penalty not to exceed $125,000 (as adjusted by 40 C.F.R. Part 19).

2. Duty to Reapply. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge after the expiration date of this permit, the permittee must apply for and obtain a new permit. If the permit issuing authority remains EPA, the permittee shall complete, sign, and submit an application to the Regional Administrator no later than 180 days before the expiration date.

3. Need to Halt or Reduce not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality

assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit actions.

a. This permit may be modified, revoked and reissued, or terminated during its term pursuant to 40 C.F.R. Part 122, Subpart D. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property rights. This permit does not convey any property rights of any sort, or any exclusive privileges.

8. Duty to provide information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Inspection and Entry. The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

10. Monitoring and records.

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 C.F.R. part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement report or application. This period may be extended by request of the Director at any time.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

d. Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136 and any subsequent changes to the methods contained therein unless another method is required under 40 C.F.R. subchapters N or O.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. (See U.S.C. §1319(c)(4)).

11. Signatory requirements. All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 C.F.R. §122.22)

a. Applications. All permit applications shall be signed as follows:

(1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 C.F.R. §122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 C.F.R. §122.22(a)(1)(ii) rather than to specific individuals.

(2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph 11.a of Part II.B, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph 11.a of Part II.B;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent

responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Regional Administrator, U.S. Environmental Protection Agency, Region II, 290 Broadway, New York, New York, 10007-1866, Attention: Compliance Assistance Program Support Branch, and to the State Director.

c. Changes to authorization. If an authorization under paragraph 11.b of Part II.B is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph 11.b of Part II.B must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under paragraph 11.a or 11.b of Part II.B shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

e. The Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by imprisonment for not more than 6 months per violation, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both. (See section 309.c.4 of the Clean Water Act).

12. Reporting Requirements.

a. Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. §122.29(b);

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under paragraph 4.a of Part I.B (40 C.F.R. §122.42(a)(1)); or

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 C.F.R. §122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. Monitoring reports. Monitoring results shall be reported at the intervals specified in Part I of this permit.

(1) Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. 136, or another method required for an industry-specific waste stream under 40 C.F.R. subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

e. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

f. Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances to the Regional Administrator at (732) 548-8730 and State Director. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass (see 13 below) which exceeds any effluent limitation in the permit. (See 40 C.F.R. §122.41(g)).

(b) Any upset (see 14 below) which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 C.F.R. §122.44(g)).

(3) The Director may waive the written report on a case-by-case basis for reports under paragraph 12.f.(2) of Part II.B if the oral report has been received within 24 hours.

g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs 12.d, e, and f of Part II.B, at the time the monitoring reports are submitted. The reports shall contain the information listed in paragraph 12.f of Part II.B.

h. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

13. <u>Bypass</u>

a. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 13.b. and 13.c of Part II.B.

b. Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph 12.f of Part II.B (24-hour notice).

c. Prohibition of bypass.

(1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under paragraph 13.b of Part II.B.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 13.b.(1) of Part II.B.

14. Upset.

a. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph 14.(b) of Part II.B are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

b. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in paragraph 12.f.(2)(b) of Part II.B (24 hour notice); and

(4) The permittee complied with any remedial measures required under paragraph 4 of Part II.B (duty to mitigate).

c. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

15. Removed substances. Pursuant to section 301 of the Clean Water Act, solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in paragraph 2 of Part I.B:

a. The sources of the materials to be disposed of;

b. The approximate volumes and weights;

c. The method by which they were removed and transported; and

d. Their final disposal locations.

16. Oil and hazardous substance liability. The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Clean Water Act shall be in conformance with regulations promulgated pursuant to Section 311 to discharges from facilities with NPDES permits.

17. Reopener clause for toxic effluent limitations. Other effluent limitations and standards under sections 301, 302, 303, 307, 318 and 405 of the Clean Water Act. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. See also 40 C.F.R. §122.41(a).

18. State laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act. The issuance of this permit does not preempt any duty to obtain State or local assent required by law for the discharge.

19. Availability of information. (Section 308 of the Clean Water Act)

a. NPDES permits, effluent data, and information required by NPDES application forms provided by the Director under 40 C.F.R. §122.21 (including information submitted on the forms themselves and any attachments used to supply information required by the forms) shall be available for public inspection at the offices of the Regional Administrator and State Director.

b. In addition to the information set forth in subsection a., any other information submitted to EPA in accordance with the conditions of this permit shall be made available to the public without further notice unless a claim of business confidentiality is asserted at the time of submission in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).

c. If a claim of confidentiality is made for information other than that enumerated in subsection a., that information shall be treated in accordance with the procedures in 40 C.F.R. Part 2. Only information determined to be confidential under those procedures shall not be made available by EPA for public inspection.

20. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. EFFECTIVENESS OF PERMIT

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a petition has been filed with the Environmental Appeals Board to review any condition of the permit decision pursuant to the provisions of 40 C.F.R. Part 124.19. All contested conditions and any uncontested condition(s) that are inseverable from the contested conditions shall be stayed. All other conditions shall become effective thirty (30) days after the date of the notification specified in 40 C.F.R. §124.16(a)(2)(ii).

2. For purposes of judicial review under Section 509(b) of the Clean Water Act, final agency action on a permit does not occur unless and until a party has exhausted its administrative remedies under 40 C.F.R. 124. Any party which neglects or fails to seek review under 40 C.F.R. §124.19, thereby waives its opportunity to exhaust available agency administrative remedies.

ATTACHMENT I

RESPONSIVENESS SUMMARY AND CHANGES FOR THE FOLLOWING DRAFT PERMITS

Aceitunas WTP (PR0026671)
Caguas Sur WTP (PR0022888)
El Yunque WTP (PR0023931)
Esperanza WTP (PR0025950)
Guaraguaro WTP (PR0024651)
Gurabo WTP (PR0026743)
Indiera Alta WTP (PR25194)
La Boca – Barranquitas WTP (PR0026565)
Lajas WTP (PR0022985)
Morovis – Rio Grande WTP (PR0026611)
Naguabo WTP (PR0022853)
Rio Blanco WTP (PR0022845)
Sana Muerto WTP (PR0026735)
San Sebastian WTP (PR0023981)
Fajardo WWTP (PR0026484)
Guayanilla WWTP (PR0020494)
Rio Grande Estates WWTP (PR0023264)
Yauco WWTP (PR0021661)

On **February 15, 2013**, the United States Environmental Protection Agency (EPA) issued draft National Pollutant Discharge Elimination System (NPDES) permits for Water Treatments Plants (WTP's) and Wastewater Treatment Plants (WWTPs) owned by the Puerto Rico Aqueduct and Sewer Authority (PRASA) listed above.

According to 40 Code of Federal Regulations (CFR) §124.17, at the time that any final permit decision is issued under §124.15, EPA shall issue a response to comments. This response shall (1) specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the change; and (2) briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

Comments on behalf of PRASA were received from the following addresses:

Puerto Rico Aqueduct and Sewer Authority
PO Box 7066
Barrio Obrero Station
San Juan, PR 00916

All the comments received have been reviewed and considered in this final permit decision. A summary of and response to the comments received follows:

A. GENERAL COMMENT

In its comment letter PRASA has raised a number of issues, many of which address inclusion in the permit of conditions contained in the Water Quality Certificate (WQC) issued by EQB.

Response 1:

EPA is providing a generalized response to PRASA's comments which relate to requirements in EQB's WQCs.

Section 301(b)(1)(C) of the Clean Water Act (CWA) requires that there be achieved effluent limitations necessary to assure that a discharge will meet Water Quality Standards (WQS) of the applicable State and Federal laws and regulations where those effluent limitations are more stringent than the technology-based effluent limitations required by Section 301(b)(1)(A) of the CWA. Section 401(a)(1) of the CWA requires that the State certify that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the CWA. Pursuant to Section 401(d) of the CWA any certification shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal permit will comply with any applicable effluent limitations and other limitations under section 301 or 302 of the CWA, and with any other appropriate requirement of State law set forth in such certification. Also, 40 C.F.R. 122.44(d) requires that each NPDES permit shall include requirements which conform to the conditions of a State Certification under Section 401 of the CWA that meets the requirements of 40 C.F.R. 124.53. Similarly, 40 C.F.R. 124.55 requires that no final NPDES permit shall be issued unless the final permit incorporates the requirements specified in the certification under §124.53. Concerning the certification requirements in 40 C.F.R. 124.53(e)(1), they specify that all Section 401(a)(1) State certifications must contain conditions which are necessary to assure compliance with the applicable provisions of CWA sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law.

EQB issued final WQCs certifying that pursuant to Section 401(a)(1) of the CWA, after due consideration of the applicable provisions established under Sections 208(e), 301, 302, 303, 304(e), 306 and 307 of the CWA concerning water quality requirements, there is reasonable assurance that the discharge will not cause violations to the applicable WQSs, provided that the effluent limitations set forth in the WQCs are met by the above facility.

The effluent limitations (where more stringent than technology-based effluent limitations), monitoring requirements and other appropriate requirements of State law (including footnotes, Special Conditions, etc.) specified in the final WQC issued by the EQB were incorporated by EPA into the NPDES permit as required by Section

301(b)(1)(C) and 401(d) of the CWA and the applicable regulations. Therefore, concerns and comments regarding the WQC must be directed to EQB or to the Superior Court.

Also, in the event that EPA receives a revised or modified WQC, we would consider modification of this permit, subject to all applicable federal requirements, to include revised WQC requirements and conditions.

B. PRASA GENERAL COMMENTS

1) **Comment**: **Receiving Body of Water** (This comment applies to the following permits Aceitunas WTP (PR0026671), Caguas Sur WTP (PR0022888), El Yunque WTP (PR0023931), Esperanza WTP (PR0025950), Guaraguao WTP (PR0024651), Gurabo WTP (PR0026743), Indiera Alta WTP (PR0025194), La Boca-Barranquitas WTP (PR0026565), Lajas WTP (PR0022985), Morovis-Rio Grande WTP (PR0026611), Naguabo WTP (PR0022853), Rio Blanco WTP (PR0022845), Sana Muerto WTP (PR0026735), and San Sebastian WTP (PR0023981).

Name of receiving body of water in Statement of Basis and attachment must be corrected as indicated in final Water Quality Certificate. In some cases, the same correction must be made in the first page of the draft NPDES permit.

Response: This was a typographical error; EPA has revised the name of the receiving body of waters in the permit and fact sheet of all the facilities mentioned above except for Sana Muerto WTP (PR0026735).

For Sana Muertos WTP, EPA has kept the receiving water name as stated in the draft permit: "natural drainage tributary to Los Cabros Creek which is tributary to Sana Muerto River" as stated in EQB's final WQC. See response to A.1., above.

2) **Comment**: **Statement of Basis Attachment**: (This comment applies to the following permits Aceitunas WTP (PR0026671), Caguas Sur WTP (PR0022888), El Yunque WTP (PR0023931), Esperanza WTP (PR0025950), Guaraguao WTP (PR0024651), Gurabo WTP (PR0026743), Indiera Alta WTP (PR0025194), La Boca-Barranquitas WTP (PR0026565), Lajas WTP (PR0022985), Morovis-Rio Grande WTP (PR0026611), Naguabo WTP (PR0022853), Rio Blanco WTP (PR0022845), San Sebastian WTP (PR0023981), Fajardo WWTP (PR0026484), Guayanilla WWTP (PR0020494), Rio Grande Estaes WWTp (PR0023264), and Yauco WWTP (PR0021661).

Section III, Description of Limitations and Conditions in the Statement of Basis reference Attachment I. Nevertheless, the only attachment included is named Attachment II. Please, clarify.

Response: This was a typographical error; the only attachment in the Statement of Basis

is "Attachment I". The Statement of Basis for the permits mentioned above have been revised accordingly.

3) **Comment: Special Condition for Toxicity:** (This comment applies to Aceitunas WTP (PR0026671), and Gurabo WTP (PR0026743))

Special Condition 15 (WET): EQB's final WQC says ""This special condition shall not become in effect until EQB has determined the applicability to the respective facility and has notified the permittee and EPA, in writing, of the necessity to comply with this special condition". PRASA has not received any notification from EQB indicating they need to comply with this Special Condition for the facility. PRASA requests EPA the reasons to determine the applicability of this Special Condition, in addition to the ones indicated in the Statement of Basis Attachment I, 7. Since the period to obtain the necessary data to determine if there is reasonable potential to cause or contribute to exceed WQS for toxicity were already performed and shown in the data included with the NPDES application.

Response: EPA will be requesting whole effluent toxicity monitoring data from most dischargers in Puerto Rico in order to determine whether these facilities have the reasonable potential to cause or contribute to a violation of the Puerto Rico water quality standards for toxicity. The regulatory justification for this decision is included below. The frequency and number of samples included in the draft permit was for the purposes of obtaining at least four representative sample results with which to perform a reasonable potential analysis. Quarterly sampling was not chosen to represent seasonal differences in the discharge, but rather to include representative samples over the course of a year to account for effluent variability. EPA believes a minimum of four sample results are necessary to perform an analysis of whether a discharge demonstrates reasonable potential to cause or contribute to a violation of a water quality standard.

EPA intends to use the approach outlined in the *Technical Support Document of Water Quality-based Toxics Control (March 1991)* to perform the reasonable potential analysis. The statistical procedures in this document account for effluent variability for data sets with few samples. These procedures are conservative in their projections, such that small datasets are more likely to project higher receiving water concentrations. For this reason, EPA does not believe that semiannual testing for one year would be sufficient to accurately determine reasonable potential. If, on the basis of the four quarterly sample results provided by this permit condition, EPA determines that reasonable potential exists, PRASA would be given the opportunity to collect additional samples to refine the analysis and possibly demonstrate a lower projected receiving water concentration, which may result in a determination that there is not potential to cause or contribute to a violation of the applicable water quality standards.

The Clean Water Act (CWA) states that "...it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited." (CWA §101(3)). Federal regulations at 40 CFR §122.44(d)(1) require EPA and the delegated states to evaluate each National Pollutant Discharge Elimination System (NPDES) permit for the potential to exceed state numeric or

narrative water quality standards, including those for toxics, and to establish effluent limitations for those facilities with the "reasonable potential" to exceed those standards. These regulations require both chemical specific limits, based on the state numeric water quality standards or other criteria developed by EPA, and whole effluent toxicity effluent limits.

EPA Headquarters has released a draft guidance document entitled *Draft National Whole Effluent Toxicity (WET) Implementation Guidance Under the NPDES Program* (November 2004, released December 28, 2004), which reaffirms long-standing requirements to identify and address sources which may exceed water quality criteria for human health protection. The draft guidance highlights the regulatory requirement that known aquatic toxicity be addressed by applying appropriate chemical specific and/or whole effluent toxicity limitations or toxicity reduction requirements when a reasonable potential for toxic conditions exists within a receiving water. This document also provides guidance to permit writers for including permit requirements where reasonable potential was determined on a limited number of test results, and provides some flexibility to the permitees to collect additional data to demonstrate that their discharge does not have reasonable potential to violate water quality standards.

The Puerto Rico Water Quality Standards Regulation (PRWQSR), as amended by the Environmental Quality Board of Puerto Rico (EQB) on March 28, 2003 includes the criterion that "The waters of Puerto Rico shall not contain any substance at such concentration which, either alone or as a result of synergistic effects with other substances is toxic or produces undesirable physiological responses in human, fish, or other fauna or flora." (Section 3.1.9). The PRWQSR further defines the numeric interpretation of this narrative standard as not causing an exceedance of either 0.3 acute toxicity units (TUa) or 1.0 chronic toxicity units (TUc). These numeric values are consistent with those recommended in the EPA draft guidance manual referenced above.

Region 2 has developed an implementation strategy designed to support and implement the national policy and regulations, and the PRWQSR, to ensure that no source (industrial or municipal) will be allowed to discharge any wastewater which results in acute or chronic aquatic toxicity within a receiving water; or causes a violation of an applicable general or numerical state water quality standard. We are forwarding you a copy of our strategy under separate cover.

4) **<u>Comment</u>: Statement of Basis - Coordinates:** (This comment applies to Lajas WTP (PR0022985), Morovis – Rio Grande WTP (PR0026611), Rio Blanco WTP (PR0022845), Sana Muerto WTP (PR0026735), Fajardo WWTP (PR0026484),

Revise coordinate according to NPDES Application:

Facility	Original	Revision Requested
Lajas WTP	18° 2' 3", 67° 3' 11"	18° 2' **33**", 67° 3' 11"
Morovis-Rio Grande WTP	18° 20' 12", 65° 49' 36"	18° **18**' 47", 65° 49' 43"
Rio Blanco WTP	18° 13' 18", 65° 45' 05"	18° 13' 18", 65° **47**' 05"
Sana Muerto WTP	18° 15' 24", 66° 25' 08"	18° 15' **36**", 66° 25' **18**"
Fajardo WWTP	18° 27' 20.18", 65° 39' 53.33"	18° **18**' 20.18", 65° 39' 53.33"

Response: This was a typographical error; EPA has revised the coordinates in the Statement of Basis for the facilities mentioned above as requested by PRASA.

5) **Comment: Flow** (This comment applies to Guayanilla WWTP (PR0020494) and Rio Grande Estates WWTP (PR0023264).)

This type of limit in Table A-1, 0.62 MGD (Guayanilla WWTP) and 0.75 MGD (Fajardo WWTP) as daily max is not the same as the one in Section II of the Statement of Basis, "This is a facility designed to provide secondary treatment for an average daily flow 0.62 MGD (Guayanilla WWTP) and 0.75 MGD (Fajardo WWTP)". Moreover, the NPDES application indicates the design flow of the facility is 0.62 MGD (Guayanilla WWTP) and 0.75 MGD (Fajardo WWTP) as Monthly Average. In addition Attachment K of the Mega Consent Decree which is in effect since June 1, 2006, established monthly average flow for these facilities. For this reason we request that the flow limit for this facility be moved to the Monthly Average column.

Response: EPA has incorporated this Special Condition pursuant to the final WQC mandated by EQB. See response to A.1., above.

C. ACEITUNAS WTP COMMENTS

1) **Comment 1:** There is a typographical error in the first page of the permit, facility address. This must be revised accordingly.

Response: This was a typographical error. The final permit has been revised to correct the address of the facility to read "PR 561, Km 3.8".

D. EL YUNQUE WTP COMMENTS

1) **Comment 1:** The Greek symbol to identify the measurement frequency for toxic phenols in Table A-1 is not the same symbol at the end of the table.

Response: This was a typographical error. The final permit has been revised to read as the final WQC.

E. ESPERANZA WTP COMMENTS

1) **Comment 1:** BOD5: The limit for this parameter in Table A-1 is 9.7 mg/L as monthly average, this is not usual in permit limitations for filtration plants.

Response: EPA has incorporated this limit pursuant to the final WQC mandated by EQB. See response to A.1., above.

2) **Comment 2:** Pentachlorophenol: This parameter appears without the measurement units in Table A-1. Therefore, the units of micrograms per liter (μg/L) must be included.

Response: This was a typographical error. The final permit has been revised to add the μg/L units for Pentachlorophenol.

F. GURABO WTP COMMENTS

1) **Comment 1:** Due typographical error previously mentioned, the special condition No. 15 and 16 must be identified as Special Condition No. 16 and Special Condition No. 17.

Response: This is a typographical error; the referenced item has been modified according to PRASA's comments.

G. LA BOCA - BARRANQUITAS WTP COMMENTS

1) **Comment 1:** Total Phosphorus: This parameter appears without the frequency limit and sample type in Table A-1.

Response: This was a typographical error. Table A-1 of the final permit has been revised to add the Quarterly in the measurement frequency and Grab in the sample type of Total Phosphorus.

H. LAJAS WTP COMMENTS

1) **Comment 1:** Sulfates - The chemical nomenclature is not included in Table A-1. The acronym "(SO4)" must be included. Also, this parameter appears without the measurement units. Therefore, the units of milligrams per liter (mg/L) must be included.

Response: This was a typographical error. Table A-1 of the final permit has been revised to add the acronym (SO4) and mg/L units for Sulfates.

2) **Comment 2:** "Sulfide" – PRASA understands there is a typographical error in Table A-1, this parameter can be confused with "Sulfide, Total" before regulated in NPDES permits. For this reason, PRASA requests that sulfide be modified to read as "Sulfide (Undissociated H2S)". Also, this parameter appears without the measurement units. Therefore, the units of micrograms per liter (µg/L) must be included.

Response: This was a typographical error. Table A-1 of the final permit has been revised to add Sulfide (Undissociated H2S) and µg/L units for Sulfates.

I. MOROVIS – RIO GRANDE WTP COMMENTS

1) **Comment 1:** The zipcode in the Statement of Basis and the first page of the draft NPDES permit must be corrected.

Response: This was a typographical error. The zipcode in the Statement of Basis has been revised to read 00745.

J. NAGUABO WTP COMMENTS

1) **Comment 1:** BOD 5: The effluent limit for this parameter in Table A-1 is 7.22 mg/L as monthly average, this is not usual in permit limitation for filtration plants.

Response: EPA has incorporated this limit pursuant to the final WQC mandated by EQB. See response to A.1., above.

K. FAJARDO WWTP COMMENTS

1) **Comment 1**: The Fajardo Wastewater Treatment Plant (WWTP) is an advanced secondary treatment facility. It was design to obtain an effluent concentration of 30 mg/L of BOD5, according to the 40 CFR 133.12. This section of the 40 CFR establishes that the 30-day average value for BOD5 shall not exceed 30 mg/L. The draft NPDES permit

includes an effluent limitation of 5.0 mg/L for this parameter, which is less than the existing limit 30.0 mg/L. For this reason, PRASA requests that the secondary treatment requirement, 30 mg/L for BOD5, be established in the final permit.

Response: EPA has incorporated this limit pursuant to the final WQC mandated by EQB. See response to A.1., above.

2) **Comment 2 – Color**: This limit in Table-I of the draft NPDES permit must be corrected as indicated in final Water Quality Certificate.

Response: This was a typographical error. The final permit has been revised to read as the final WQC

3) **Comment 3 - Flow:** This type of limit in Table A-1, 9.2 MGD (max. daily) is not the same as the one in Section II of the Statement of Basis, "This is a facility designed to provide tertiary treatment for an average daily flow of 9.2 MGD".

Response: This was a typographical error. The final permit has been revised to read as the final WQC; "This is a facility designed to provide secondary treatment for an daily maximum of 9.2 MGD".

L. GUAYANILLA WWTP COMMENTS

1) **Comment 1**: The zipcode in the Statement of Basis must be corrected.

Response: This was a typographical error. The zipcode in the Statement of Basis has been revised to read 00656.

2) **Comment 2 - BOD:** The Guayanilla Wastewater Treatment Plant (WWTP) is a secondary treatment facility. It was design to obtain an effluent concentration of 30 mg/L of BOD5, according to the 40 CFR 133.12. This section of the 40 CFR establishes that the 30-day average value for BOD5 shall not exceed 30 mg/L. The draft NPDES permit includes an effluent limitation of 5.0 mg/L for this parameter, which is less than the existing limit 30.0 mg/L. For this reason, PRASA requests that the secondary treatment requirement, 30 mg/L for BOD5, be established in the final permit

Response: EPA has incorporated this limit pursuant to the final WQC mandated by EQB. See response to A.1., above.

3) **Comment 3 - Mercury:** the limit and the monitoring requirements cannot be read.

Response: This was a typographical error. The final permit has been revised to read as the final WQC.

4) Comment 4 – footnote: The footnote Φ is not included at the end of Table A-1 for 2,4,6-Trichlorophenol, 2-Methyl-4,6-Dinitrophenol and Pentachlorophenol must be corrected as indicated in final Water Quality Certificate.

Response: This was a typographical error. The final permit has been revised to read as the final WQC.

M. RIO GRANDE ESTATES WWTP COMMENTS

1) Comment 1: Section II, Description of Applicant's Facility and Discharge in the Statement of Basis indicated "this is a facility designed to provide tertiary treatment" this is a typographical error, must be substituted by "secondary treatment".

Response: This was a typographical error. The final permit has been revised to read as the final WQC; "This is a facility designed to provide secondary treatment for an average daily flow of 0.75 MGD".

N. YAUCO WWTP COMMENTS

1) Comment 1: There is a typographical error in the Statement of Basis and first page of the permit, facility address. These must be revised accordingly.

Response: This was a typographical error. The final permit has been revised to correct the address of the facility to read "PR 335".

2) **Comment 2**: The Yauco Wastewater Treatment Plant (WWTP) is a tertiary treatment facility. It was design to obtain an effluent concentration of 30 mg/L of BOD5, according to the 40 CFR 133.12. This section of the 40 CFR establishes that the 30-day average value for BOD5 shall not exceed 30 mg/L. The draft NPDES permit includes an effluent limitation of 5.0 mg/L for this parameter, which is less than the existing limit 30.0 mg/L. For this reason, PRASA requests that the secondary treatment requirement, 30 mg/L for BOD5, be established in the final permit.

Response: EPA has incorporated this limit pursuant to the final WQC mandated by EQB. See response to A.1., above.

3) Comment 3 - BOD & TSS: The measurement frequency (monthly) in Table A-I for these parameters are not the same as in Table I. Please, clarify.

Response: This was a typographical error. Table A-1 of the final permit has been revised to add the Weekly in the measurement frequency of BOD & TSS.

4) Comment 4 – Flow: this type of limit in Table A-1, 4.5 MGD (max. daily) is not the same as the one in Section II of the Statement of Basis, "This is a facility designed to provide tertiary treatment for an average daily flow of 4.5 MGD".

Response: This was a typographical error. The Statement of Basis has been revised to correct the address of the facility to read "daily max".

5) Comment 5 – Nitrate plus Nitrites: This parameter appears without the measurement units. Therefore, the units of micrograms per liter (mg/L) must be included.

Response: This was a typographical error. The final permit has been revised to add the µg/L units for Nitrate plus Nitrites.