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**Region 2**  
Caribbean Environmental Protection Division  
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Guaynabo, Puerto Rico 00968-8069

**FACT SHEET**

**DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
ASOCIACION DE CONDOMINES DE ISLETA MARINA  
PERMIT NO. PR0021539**

This Fact Sheet sets forth the principal facts and technical rationale that serve as the legal basis for the requirements of the accompanying draft permit. The draft permit has been prepared in accordance with Clean Water Act (CWA) Section 402 and its implementing regulations at Title 40 of the *Code of Federal Regulations* (CFR), Parts 122 through 124, and the final Water Quality Certificate (WQC) issued by the Puerto Rico Department of Natural and Environmental Resources (DNER), formerly known as the Puerto Rico Environmental Quality Board, pursuant to CWA Section 401 requirements.

Pursuant to 40 CFR 124.53, the Commonwealth of Puerto Rico must either grant a certification pursuant to CWA Section 401 or waive this certification before the U.S. Environmental Protection Agency (EPA) may issue a final permit. On February 7, 2020, DNER provided in the WQC that the allowed discharge will not cause violations to the applicable water quality standards at the receiving water body if the limitations and monitoring requirements in the WQC are met. In accordance with CWA Section 401, EPA has incorporated the conditions of the final WQC into the draft permit. The WQC conditions are discussed in this Fact Sheet and are no less stringent than allowed by federal requirements. Additional requirements might apply to comply with other sections of the CWA. Review and appeals of limitations and conditions attributable to the WQC were made through the applicable procedures of the Commonwealth of Puerto Rico and not through EPA procedures. No appeals were received by DNER on the WQC.

**PART I. BACKGROUND**

**A. Permittee and Facility Description**

The **Asociación de Condómines de Isleta Marina** (referred to throughout this Fact Sheet as the "Permittee") has applied for **renewal of its National Pollutant Discharge Elimination System (NPDES) permit**. The Permittee is discharging pollutants into a water of the United States pursuant to NPDES Permit No. **PR0021539**. The Permittee submitted Applications **Form 1 and Form 2C on April 5, 2012** and applied for an NPDES permit to discharge secondary treated wastewater and filter backwash of swimming pool from the **Asociación de Condómines de Isleta Marina's** privately-owned treatment works ("Facility" or "WWTP"). The Facility is classified as a **minor** discharger by EPA in accordance with the EPA rating criteria.

The WWTP was designed and built to treat the raw sewage originated from the buildings and apartments complex located in Obispo Key in Fajardo, Puerto Rico.

The Permittee proposes to discharge 378.5 m<sup>3</sup>/day (0.10 MGD), as daily maximum of secondary treated sanitary and swimming pools filter backwash from the WWTP through the point of discharge 001 into Fajardo Bay, a water of the United States. The Attachment A of this Fact Sheet provides a map of the area around the Facility and a flow schematic of the WWTP.

### Summary of Permittee and Facility Information

<b>Permittee</b>	Asociación de Condómines de Isleta Marina
<b>Facility contact, title, phone</b>	Maria Silva de Cubano, President, (787) 220-0099
<b>Permittee (mailing) address</b>	P.O. Box 459, Fajardo, PR 00740
<b>Facility (location) address</b>	Obispo Key, Fajardo, PR 00680
<b>Type of facility</b>	Sewerage System (Standard Industrial Classification Code 4952)
<b>Pretreatment program</b>	N/A
<b>Facility monthly average flow</b>	0.020 MGD
<b>Facility design flow</b>	0.10 MGD
<b>Facility classification</b>	Minor

### B. Discharge Points and Receiving Water Information

Wastewater is discharged from Outfall 001 to Fajardo Bay, a water of the United States.

The draft permit authorizes the discharge from the following discharge point(s):

Outfall	Effluent description	Outfall latitude	Outfall longitude	Receiving water name and classification
001	Secondary treated sanitary wastewaters and filter backwash of the swimming pools coming from the Condominium	18°, 20', 58.0" N	65°, 37', 15.0" W	Fajardo Bay

As indicated in the Puerto Rico Water Quality Standards (PRWQS) Regulations, the designated uses for Class SB receiving waters include:

1. High ecological value subject to ebb and flow of tides;
2. Propagation and preservation of desirable species, including threatened or endangered species; and
3. Primary and secondary contact recreation (Primary contact recreation is precluded in any stream or segment that does not comply with Rule 1303.2 (b)(1) until such stream or segment meets the goal of the referred section).

CWA Section 303(d) requires the Commonwealth of Puerto Rico to develop a list of impaired waters, establish priority rankings for waters on the list, and develop Total Maximum Daily Loads (TMDLs) for those waters. The receiving water has not been determined to have water quality impairments for one or more of the designated uses, as determined by Section 303(d) of the CWA.

### C. Mixing Zone/Dilution Allowance

A mixing zone or dilution allowance has not been authorized for the discharger.

### D. Compliance Orders/Consent Decrees

The Permittee does have a compliance orders or consent decrees that does not affect this permit action.

### E. Summary of Basis for Effluent Limitations and Permit Conditions - General

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with the following, as applicable:

1. Clean Water Act section 401 Certification (see WQC, dated February 7, 2020)
2. NPDES Regulations (40 CFR Part 122)
3. Secondary Treatment Regulation (40 CFR Part 133)

## 4. PRWQS (April 2019)

**PART II. RATIONALE FOR EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

CWA Section 301(b) and 40 CFR 122.44(d) require that permits include limitations more stringent than applicable technology-based requirements where necessary to achieve applicable water quality standards. In addition, 40 CFR 122.44(d)(1)(i) requires that permits include effluent limitations for all pollutants that are or may be discharged at levels that cause, have the reasonable potential to cause, or contribute to an exceedance of a water quality criterion, including a narrative criterion. The process for determining reasonable potential and calculating water quality-based effluent limits (WQBELs) is intended to protect the designated uses of the receiving water and achieve applicable water quality criteria. Where reasonable potential has been established for a pollutant, but there is no numeric criterion for the pollutant, WQBELs must be established using: (1) EPA criteria guidance under CWA Section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in 40 CFR 122.44(d)(1)(vi).

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with all federal and state regulations, including PRWQS. The basis for each limitation or condition is discussed below.

**A. Effluent Limitations**

The permit establishes both Technology-based Effluent Limitations (TBELs) and WQBELs for several pollutants and the basis for these limitations are discussed below.

1. **Flow:** An effluent limitation for flow has been established in the permit according to the WQC, dated February 7, 2020, Rules 1301 and 1306 of the PRWQS, as amended, and the Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended. Monitoring conditions are applied pursuant to 40 CFR 122.21(j)(4)(ii) and the WQC.
2. **5-Day Biological Oxygen Demand (BOD<sub>5</sub>):** The effluent limitations and minimum percent removal are established based on Secondary Treatment Regulation (40 CFR Part 133) and the WQC, dated February 7, 2020, Rules 1301 and 1306 of the PRWQS, as amended, and the Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended. Monitoring conditions are applied pursuant to 40 CFR 122.21(j)(4)(ii) and the WQC.
3. **Total Suspended Solids (TSS):** The effluent limitations and minimum percent removal are established based on Secondary Treatment Regulation (40 CFR Part 133) and the WQC, dated February 7, 2020, Rules 1301 and 1306 of the PRWQS, as amended, and the Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended. Monitoring conditions are applied pursuant to 40 CFR 122.21(j)(4)(ii) and the WQC.
4. **Temperature:** The effluent limitation for temperature is based on the water quality criterion for all waters, as specified in Rule 1303.1(D) of PRWQS, and the WQC.
5. **Narrative effluent limitations:** Effluent limitations for **oil and grease; solids and other matter; suspended, colloidal, or settleable solids; taste and odor producing substances; and other pathogenic organisms** in toxic concentrations are based on the water quality criteria, as specified in Rules 1303.1 and 1303.2(B) and 1306 of PRWQS, as required by the 2020 WQC, and as carried forward from the 2007 Permit.
6. **Enterococci:** The discharge consists of domestic sewage that is a source of pathogens. To ensure that the recreational use of the water body is met, effluent limitations for enterococci are established in the permit and are based on the water quality criterion for **Class SB** waters, as specified in Rule 1303.2 B.2.b of PRWQS, and the WQC.
7. **Dissolved Oxygen (DO):** The effluent limitation is based on the water quality criterion for **Class SB** waters, as specified in Rule 1303.2 B.2.a of PRWQS, and the WQC.
8. **Color:** The effluent limitation is based on the water quality criterion for **Class SB** waters, as specified in Rule 1303.2.B.2.e of PRWQS, and the WQC.
9. **Turbidity:** The effluent limitation is based on the water quality criterion for **Class SB** waters, as specified in Rule 1303.2 B.2.f of PRWQS, and the WQC.

10. **Surfactants:** The effluent limitation is based on the water quality criterion for **Class SB** waters, as specified in Rule 1303.2.B.2.i of PRWQS, and the WQC.
11. **Total Nitrogen:** The effluent limitation is based on the water quality criterion for **Class SB** waters as, specified in Rule 1303.2.B.2.k of PRWQS, and the WQC.
12. **pH:** The effluent limitation is based on the water quality standards, as specified in Rule 1303.2.B.2.d of PRWQS, and the WQC.
13. **Residual Chlorine and Sulfides:** The effluent limitation is based on the water quality standards, as specified in Rule 1303.1.J.1 of PRWQS, and the WQC.

## B. Effluent Limitations Summary Table

### 1. Outfall Number 001

Parameter	Units	Effluent limitations					
		Averaging period	Highest Reported Value <sup>(1)</sup>	Existing limits	Interim limits	Final limits	Basis
BOD <sub>5</sub>	mg/L	Monthly Average	11.1	30.0	n/a	30.0	WQBEL
		Weekly Average	83.1	45.0		45.0	
BOD <sub>5</sub> percent removal	%	Monthly minimum	89	85	n/a	85	TBEL
Color	Pt-Co	Daily Maximum	15.7	monitor	n/a	monitor	WQBEL
Total Residual Chlorine	µg/L	Daily Maximum	280	500	n/a	7.5	WQBEL
Dissolved Oxygen	mg/L	Daily Maximum	5.7	≥ 5.0	n/a	≥ 5.0	WQBEL
Fecal Coliform	col/100 mL	Daily Maximum	9.5	200 col / 100 mL	n/a	---	WQBEL
Flow	MGD	Daily Maximum	0.014	0.10	n/a	0.10	WQBEL
Enterococci	col/100 mL	Average Monthly	2.95	35 col / 100 mL	n/a	35 col / 100 mL	WQBEL
	90th Percentile of the samples	Average Monthly	---	---	n/a	130 col / 100 mL	WQBEL
pH	SU	Daily Maximum	6.76 - 8.7	7.3 - 8.5	n/a	7.3 - 8.5	WQBEL
Fluoride	µg/L	Daily Maximum	109.7	700	n/a	---	WQBEL
Oil and Grease	mg/l	Daily Maximum	3.7	monitor	n/a	monitor	WQBEL
Sulfide	µg/L	Daily Maximum	--	2	n/a	2	WQBEL
Surfactants	µg/L	Daily Maximum	44	500	n/a	500	WQBEL
Temperature	°C	Daily Maximum	29.1	32.2	n/a	30	WQBEL
TSS	mg/L	Monthly Average	8.9	30.0	n/a	30.0	TBEL
		Weekly Average	202.0	45.0		45.0	
TSS percent removal	%	Monthly Minimum	93	85	n/a	85	TBEL
Settleable Solids	mL/L	Daily Maximum	0.13	monitor	n/a	monitor	WQBEL
Total Nitrogen	µg/L	Daily Maximum	--	5,000	20,000	5,000	WQBEL
Turbidity	NTU	Daily Maximum	6.9	50	n/a	10	WQBEL

**Notes, Footnotes and Abbreviations**

Note: Dashes (---) indicate there are no effluent data, no limitations, or no monitoring requirements for this parameter.

(1) Average wastewater data from Discharge Monitoring Reports submitted by the Permittee for the January 2017 to January 2020 period, and application, dated April 3, 2012.

**2. Outfall 001 Narrative Limitations**

- a. The waters of Puerto Rico shall not contain any substance, attributable to the discharge 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.
- b. The waters of Puerto Rico shall be substantially free from floating non-petroleum oils and greases as well as petroleum derived oils and greases.
- c. The waters of Puerto Rico shall not contain floating debris, scum, or other floating materials attributable to discharges in amounts sufficient to be unsightly or deleterious to the existing or designated uses of the water body.
- d. Solids from wastewater sources shall not cause deposition in or be deleterious to the existing or designated uses of the water body.
- e. Taste and odor-producing substances shall not be present in amounts that will interfere with primary contact recreation or will render any undesirable taste or odor to edible aquatic life.
- f. These waters shall be free from other pathogenic organisms different to coliforms and enterococci.
- g. 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 NPDES permit, shall not exceed the concentrations specified in the applicable regulatory limitations.

**C. Monitoring Requirements**

NPDES regulations at 40 CFR 122.48 require that all permits specify requirements for recording and reporting monitoring results. The Part III of the Permit establishes monitoring and reporting requirements to implement federal and state requirements. In addition, the WQC specifies the location of the discharge after the monitoring point and requirements for a licensed chemist and microbiologist according to Rules 1301 and 1306 of PRWQS, as amended.

**D. Compliance with Federal Anti-Backsliding Requirements and Puerto Rico's Anti-Degradation Policy**

Federal regulations at 40 CFR 131.12 require that state water quality standards include an anti-degradation policy consistent with the federal policy. The discharge is consistent with the anti-degradation provision of 40 CFR 131.12, 72 Federal Register 238 (December 12, 2007, pages 70517-70526) and DNER's *Anti-Degradation Policy Implementation Procedure* in Attachment A of PRWQS. In addition, CWA sections 402(o)(2) and 303(d)(4) and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. Further, the "Region 2 Anti-backsliding Policy" provides guidance regarding relaxation of effluent limitations based on water quality for NPDES permits in the Commonwealth of Puerto Rico.

- Existing effluent limitations for **Fluoride and Fecal Coliforms** have been removed based on CWA Section 402(o)(2)(B)(i). CWA Section 402(o)(2)(B)(i) authorizes the backsliding of effluent limitations if information is available which was not available at the time of permit issuance that would have justified the application of a less stringent effluent limitation at the time of permit issuance. Based on review of effluent data since issuance of the 2007 Permit, the modified discharge does not show a reasonable potential for the exceedance of water quality criteria for these parameters.

## **PART III. RATIONALE FOR STANDARD AND SPECIAL CONDITIONS**

### **A. Standard Conditions**

In accordance with 40 CFR 122.41, standard conditions that apply to all NPDES permits have been incorporated by reference in Part IV.A.1 of the permit and expressly in Attachment B of the permit. The Permittee must comply with all standard conditions and with those additional conditions that are applicable to specified categories of permits under 40 CFR 122.42 and specified in Part IV.A.2 of the Permit.

### **B. Special Conditions**

In accordance with 40 CFR 122.42 and other regulations cited below, special conditions have been incorporated into the permit. This section addresses the justification for special studies, additional monitoring requirements, Best Management Practices, Compliance Schedules, and/or special provisions for secondary treatment facilities, such as the WWTP, as needed. The special conditions for this Facility are as follows:

#### **1. Special Conditions from the Water Quality Certificate**

In accordance with 40 CFR 124.55, EPA has established Special Conditions from the WQC in the permit that DNER determined were necessary to meet the PRWQS. The Special Conditions established in this section are only those conditions from the WQC that have not been established in other parts of the permit. Specific citations are included below from the WQC.

- a. Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended.
- b. WQC – February 7, 2020
- c. Rules 1301 and 1306 of PRWQS
- d. Environmental Public Policy Act of September 22, 2004, Act No. 416, as amended.

#### **2. Best Management Practices (BMP) Plan**

The permit does not require the Permittee to develop a BMP Plan on the basis of 40 CFR 122.2 and 122.44(k).

#### **3. Compliance Schedules**

The Permittee's effluent data indicate that the facility might not be able to consistently comply with the final effluent limitation for Total Nitrogen; therefore, a schedule of compliance has been authorized in the permit in accordance with 40 CFR 122.47 and Special Condition 19 of the WQC, which includes interim deadlines for progress or reports of progress toward compliance with the conditions of the permit. The compliance schedule for Total Nitrogen is established at thirty-six (36) months from the effective date of the permit to allow the Permittee sufficient time to achieve compliance with the newly established effluent limitation. This schedule is provided in consideration of the time it would require for the Permittee to undertake steps needed to modify or install treatment facilities, operations, or other required measures.

## **PART IV. COMPLIANCE WITH APPLICABLE PROVISIONS OF OTHER FEDERAL LAWS OR EXECUTIVE ORDERS**

### **A. Coastal Zone Management Act**

Under 40 CFR 122.49(d), and in accordance with the Coastal Zone Management Act of 1972, as amended, 16 *United States Code* (U.S.C.) 1451 *et seq.* Section 307(c) of the Act and its implementing regulations (15 CFR Part 930), state that EPA may not issue an NPDES permit that affects land or water use in the coastal zone until the Permittee certifies that the proposed activity complies with the Coastal Zone Management Program (CZMP) in Commonwealth of Puerto Rico, and that the discharge is certified by the Commonwealth of Puerto Rico to be consistent with the Commonwealth's CZMP.

The Permittee has indicated that the outfall 001 is in a coastal area managed by the Commonwealth's CZMP and, although nearby, EPA has determined it may affect the coastal area. Therefore, the requirements of 40 CFR 122.49(d) apply to this discharge. The Permittee will need to request the Puerto Rico Planning Board to issue a consistency certification for the discharge that provides that the discharge complies with its CZMP.

## **B. Endangered Species Act**

Under 40 CFR 122.49(c), EPA is required pursuant to section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* and its implementing regulations (50 CFR Part 402) to ensure, in consultation with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS), that the discharge authorized by the permit is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. Federally listed endangered or threatened species, or critical habitat, are in the vicinity of the discharge. Therefore, EPA has determined that endangered or threatened species might occur in the vicinity of the discharge. According to the NMFS and USFWS, the threatened or endangered species that might occur in the coastal waters of Puerto Rico are the following: *Trichechus manatus* (West Indian Manatee); *Eretmochelys imbricata* (Hawkbill Sea Turtle); and *Dermochelys coriacea* (Leatherback Sea Turtle). There are no critical habitats at this location.

## **C. Environmental Justice – Not Applicable**

## **D. Coral Reef Protection**

Under Executive Order 13089, Coral Reef Protection, EPA is required to ensure that discharge authorized under the permit will not degrade any coral reef ecosystem. No corals or coral ecosystems are in the vicinity of the discharge.

## **E. Climate Change**

EPA has considered climate change when developing the conditions of the permit. This is in accordance with the draft *National Water Program 2012 Strategy: Response to Climate Change* that identifies ways to address climate change impacts by NPDES permitting authorities (77 Federal Register 63, April 2, 2012, 19661-19662). Climate change is expected to affect surface waters in several ways, affecting both human health and ecological endpoints. As outlined in the draft National Water Program 2012 Strategy, EPA is committed to protecting surface water, drinking water, and ground water quality, and diminishing the risks of climate change to human health and the environment, through a variety of adaptation and mitigation strategies. These strategies include encouraging communities and NPDES permitting authorities to incorporate climate change strategies into their water quality planning, encouraging green infrastructure and recommending that water quality authorities consider climate change impacts when developing water load and load allocations for new TMDLs, identifying and protecting designated uses at risk from climate change impacts. The 2010 *NPDES Permit Writers' Manual* also identifies climate change considerations for establishing low-flow conditions that account for possible climatic changes to stream flow. The conditions established in the permit are consistent with the draft National Water Program 2012 Strategy.

## **F. National Historic Preservation Act**

Under 40 CFR 122.49(b), EPA is required to assess the impact of the discharge authorized by the permit on any properties listed or eligible for listing in the National Register of Historic Places (NRHP) and mitigate any adverse effects when necessary in accordance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* EPA's analysis indicates that no soil disturbing or construction-related activities are being authorized by approval of this permit; accordingly, adverse effects to resources on or eligible for inclusion in the NHRP are not anticipated as part of this permitted action.

## **G. Magnuson-Stevens Fishery Conservation and Management Act – Not Applicable**

## **PART V. PUBLIC PARTICIPATION**

The procedures for reaching a final decision on the draft permit are set forth in 40 CFR Part 124 and are described in the public notice for the draft permit. Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing and the nature of the hearing, and other procedures for participation in the final agency decision. EPA will consider and respond in writing to all

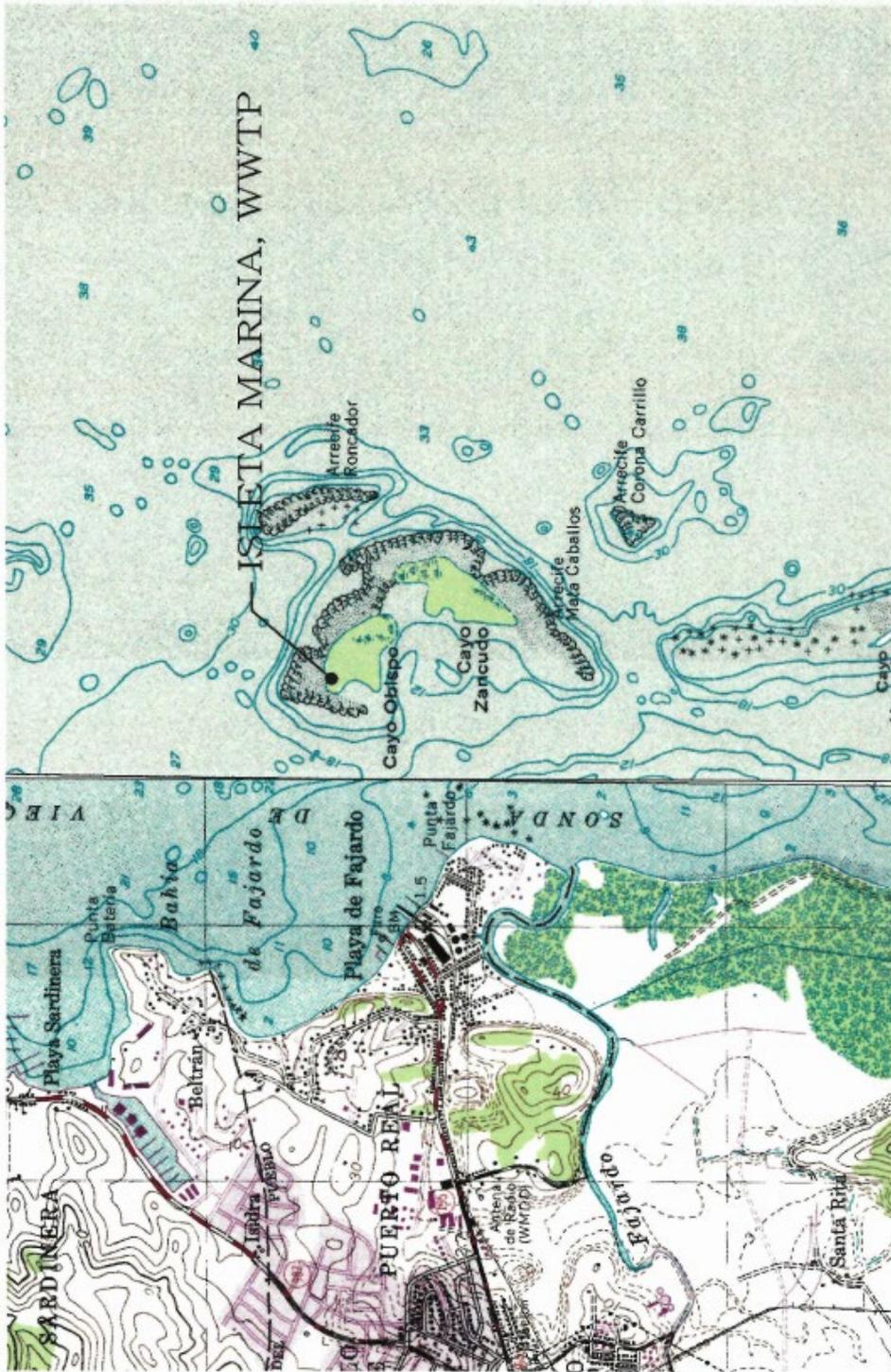
significant comments received during the public comment period in reaching a final decision on the draft permit. Requests for information or questions regarding the draft permit should be directed to:

Sergio Bosques, Permit Writer  
EPA Region 2, Caribbean Environmental Protection Division  
Multimedia Permits and Compliance Branch  
Permit Writer Phone: 787-977-5838  
Permit Writer Email: [bosques.sergi@epa.gov](mailto:bosques.sergi@epa.gov)

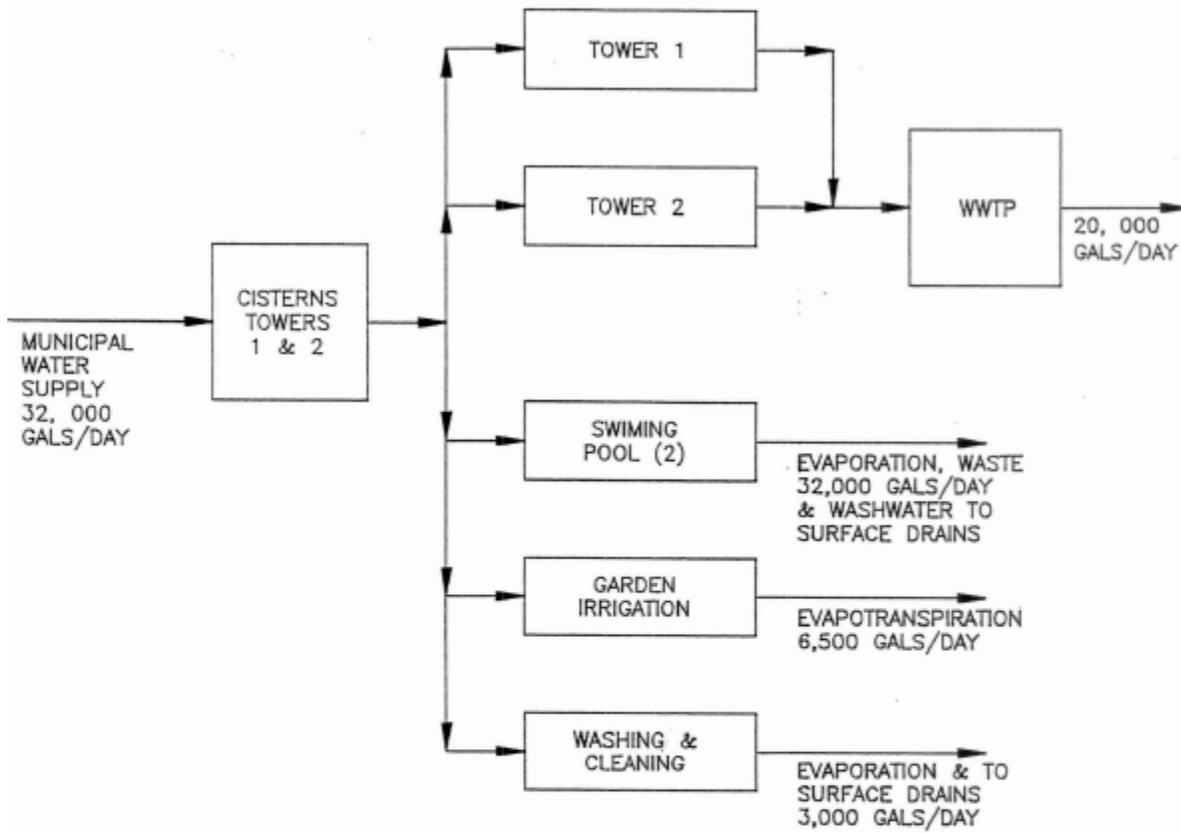
A copy of the draft permit is also available on EPA's website at [www.epa.gov/npdes-permits/puerto-rico-npdes-permits](http://www.epa.gov/npdes-permits/puerto-rico-npdes-permits).

### ATTACHMENT A — FACILITY MAP AND FLOW SCHEMATIC

The facility map and location are attached as provided by the discharger in the application.



USGS Topographic Quadrangle  
Scale: 1:20000  
Isleta Marina, WWTP



NOTE: ALL FLOWS ESTIMATED

SCHEMATIC OF WATER FLOW  
ISLETA MARINA WASTEWATER TREATMENT PLAN  
CAYO OBISPO, FAJARDO, P.R.