

ATTACHMENT C

RESPONSIVENESS SUMMARY TO THE FOLLOWING FINAL PERMIT

PRASA BARCELONETA REGIONAL WWTP (PR0021237)

On **July 24, 2020**, the United States Environmental Protection Agency (EPA) issued a draft National Pollutant Discharge Elimination System (NPDES) permit for the Regional Wastewater Treatment Plant (RWWTP) 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 address:

JACOBS, on behalf of PRASA
Metro Office Park 17 Calle 2,
Suite 400 Guaynabo, PR 00968

All the comments received have been reviewed and considered in this final permit decision. A summary of and response to the comments received by Jacobs, on behalf of PRASA, are below:

A. GENERAL COMMENT

In its comment letter, Jacobs, on behalf of PRASA, has raised a number of issues, many of which are addressed and included in the permit of conditions contained in the Water Quality Certificate (WQC) issued by the Puerto Rico Department of Natural and Environmental Resources (DNER) .

Response: EPA is providing a general response to Jacob's comments, on behalf of PRASA, which relate to requirements of DNER's WQC.

Section 301(b)(1)(C) of the Clean Water Act (CWA) requires that discharge effluent limitations 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. In addition, 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 that 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 40 C.F.R. 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.

DNER issued a final WQC 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 WQs, provided that the effluent limitations set forth in the WQC 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 DNER 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 DNER or through the local administrative and judicial mechanisms.

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. COMMENTS TO THE BARCELONETA RWWTP DRAFT PERMIT

Comment 1: It was commented in different parts of the Permit that the Atlantic Ocean Classification should be revised from SC to SB, according to the April 2019 Puerto Rico WQS. Nonetheless, EPA used SC Classification as established in the final WQC from October 17, 2019.

Response: To address the concerns established by Jacobs, on behalf of PRASA, EPA decided to consult DNER in the agency's recommended approach. In an email to EPA dated September 22, 2020, DNER confirmed that the Barceloneta RWWTP WQC should

have used the Atlantic Ocean Classification of SB. For this reason, DNER agreed that EPA should use SB in the final permit as requested by Jacobs, on behalf of PRASA.

Because of this revision, the **Dissolved Oxygen** Parameter was modified to reflect the limit as established in the PR WQS Regulation. In which, Dissolved Oxygen shall contain not less than 5.0 mg/L except when this value is depressed due to natural phenomena, as defined in the WQS Regulation. This is reflected in Table A-2 and in **Part IV, Section B. Special Condition; 1. Special Conditions from the WQC, u.5.**

Comment 2: Permit cover page, outfall latitude and longitude. Jacobs, on behalf of PRASA, requests that the coordinates of the outfall, based on the apex of the diffuser, be listed as Latitude 18°29'42.1"N and Longitude 66°32'58.4"W to conform with the mixing zone application.

Response: Outfall latitude and longitude were updated; the final permit was revised.

Comment 3: Notes in Tables A-1 through A-5. Jacobs, on behalf of PRASA, recommends that EPA review the attached marked-up version of the draft NPDES permit that identifies inconsistencies in the table notes and provides corrected references to the identified sections of the draft permit.

Response: **Table A-1:** Footnotes were revised and updated. **Table A-2:** Footnote (2) was updated. The effluent limitation for Dissolve Oxygen will remain ≥ 4.0 mg/L as stated in DNER's WQC. **Table A-3:** Footnote (2) was updated.

Comment 4: The Effluent Limitations Table in paragraph A. *Final Effluent Limitations—Outfall Number 001* in PART II of the draft permit indicates quarterly sampling for whole effluent toxicity (WET) testing and a reference to footnote (6) for further clarification. The referenced provision requires “quarterly sampling for one year, after which the test shall be performed annually.” **PRASA intends to follow the footnoted requirements—quarterly sampling for the first year of the permit, followed by annual sampling for the life of the permit.**

Response: The WET sampling will be conducting on a quarterly basis for the first year followed by annually as stated.

Comment 5: The last sentence of paragraph A.2.c. *Timing of submissions* in PART III of the draft permit states, “*The first report is due on December 28, 2019.*” This date had passed before the final permit was issued. **PRASA requests that the date of the last sentence state: “The first report is due on the 28th day of the month following the effective date of the permit.”**

Response: Last sentence was revised.

Comment 6: Paragraph A.5. *Bacterial Monitoring* in PART III of the draft permit references a percentage of individual samples that exceed the single-sample maximum criterion and geometric mean calculation, which are inconsistent with sampling and reporting requirements for enterococci in Tables A-4 and A-5 and in the most recent (2019) Puerto Rico Water Quality Standards Regulation (PRWQSR). **PRASA requests that the following text replace the existing text to be consistent with the Tables A-4 and A-5:**

“Bacterial Monitoring. *For bacterial monitoring, the Permittee must report on the DMR the calculated geometric mean and the 90th percentile value of individual samples. The enterococci geometric mean and the 90th percentile shall be calculated on a monthly basis beginning on EDP + 90 days, using the 6-points data set obtained during the previous 90-day interval as described in Attachment A. Definitions of this permit. The Permittee must report on an attachment to the DMR the analytical results of each of the six individual sample measurements for the 90-day period, the calculated geometric mean using these individual samples, and the 90th percentile of individual samples.*”

Response: EPA revised the Reporting Requirement language of Analytical Determination for Bacterial Monitoring since it was not referring to the actual Bacterial Requirements for Enterococci.

Comment 7: Paragraph B.1.U.13 in PART IV of the draft permit addresses the frequency of Mixing Zone Validation Study (MZVS) events and requires that (**emphasis added**):

- a. *The permittee shall conduct **four (4)** sampling events at the six (6) stations at the boundaries of the IMZ, at the background sampling station and at the sampling point for discharge 001, during two seasons (summer and winter). **One sampling event shall be conducted during each season.***
- b. *The dye study shall be conducted **twice, one event during each season** at the same time as one of the sampling events of such season*

The requirement for four sampling events and two dye studies is inconsistent with the Barceloneta RWWTP WQC issued by DNER and with current practice and should be removed. The MZVS requirements in the Barceloneta RWWTP WQC and other recent PRASA NPDES permits require two water quality sampling events and one dye study. The description in the Barceloneta RWWTP WQC issued by DNER states (**emphasis added**):

- a. *The permittee shall conduct **two (2)** sampling events at the six (6) stations at the boundaries of the IMZ, at the background sampling station and at the sampling point for discharge 001, during two seasons (summer and winter). **One sampling event shall be conducted during each season.***
- b. *The dye study shall be conducted **once, at the same time as one of the sampling events.***

PRASA requests that the text in the final permit be modified to be consistent with the Barceloneta RWWTP WQC.

Response: Special condition was revised as stated in the DNER’s WQC.

Comment 8: The Toxicity Reporting Table in paragraph B.3.f. *Reporting of Toxicity Monitoring Results* in PART IV of the draft permit requires semiannual reporting and submittal of reports by the *28th of every month of the analysis*. To be consistent with paragraph B.3.a.1 *Monitoring Frequency and Sample Type* in PART IV of the draft permit, the toxicity monitoring schedule table in B.3.f should be updated to reference quarterly monitoring for the first year of the permit and annual monitoring thereafter. To allow sufficient time for testing, quality assurance review, and reporting of the results to EPA, WET reports should be due 30 days following receipt of the quarter’s last testing results. This text has been used in the recent NPDES permit issued for the Carolina RWWTP owned and operated by PRASA. **PRASA requests that the text (in bold) in the Toxicity Reporting table be included as follows:**

Task	Due Date
Submit a TRE Work Plan	EDP +90 days
Submit WET Report for Quarterly monitoring during the first year of the permit	30 days following receipt of the quarter’s last testing results
After Year 1 , submit WET Report for annual monitoring	30 days following receipt of the quarter’s last testing results
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Response: Response: Table was revised.

Comment 9: The four parameters listed in paragraph B.5., *Compliance Schedules* in PART IV of the draft permit are included in the Compliance Plan. The interim limits and effective dates included for free cyanide, enterococci, residual chlorine, and total nitrogen in the Schedule of Submittals are redundant to those provided in Tables A-4 and A-5. Further, it is unclear whether the tables are showing interim or final limitations; both appear to be included, but not consistently. **PRASA requests PART IV.B.5 of the permit be updated to be consistent with Tables A-4 and A-5 by simply referencing those tables on page 25 of 28 of the draft NPDES permit.**

Response: Compliance schedule table was revised.

C. **COMMENTS TO THE BARCELONETA RWWTP FACT SHEET**

Comment 1: In the April 2019 update to the PRWQSR, the former marine waters classification of Class SC waters was discontinued for almost all marine waters, including those to which the Barceloneta RWWTP discharges, which now fall under Class SB. Further, all references to Rule 1303.2.C should be updated to 1303.2.B. ***PRASA requests all references to Class SC waters be corrected to the most recent classification of Class SB waters.***

Response: The water classification for the Barceloneta RWWTP was updated to Class SB as stated PRWQSR.

Comment 2: The *Summary of Permittee and Facility Information* table in PART I of the Fact Sheet lists the facility monthly average flow as 10.1 million gallons per day (mgd). This value is not the monthly average flow. The maximum flow reported during the 2-year assessment period (2018 through 2019) used in the Fact Sheet is 8.3 mgd. The average flow (calculated average of the reported average monthly flows) is 5.37 mgd. ***PRASA requests that the facility monthly average flow value be corrected.***

Response: Monthly average was revised to read 5.37 MGD.

Comment 3: Section D. *Interim Mixing Zone/Dilution Allowance* in PART I of the Fact Sheet incorrectly states that the Clean Water Act 401 certification from DNER requires that PRASA conduct annual receiving water monitoring. The WQC issued by the DNER requires PRASA to conduct a 1-year receiving water monitoring program. ***PRASA requests that the text be revised to be consistent with the Barceloneta RWWTP WQC.***

Response: Monitoring time was revised, as stated in the DNER's WQC.

Comment 4: PART I. *BACKGROUND*, Section E. *Compliance Orders/Consent Decrees* of the Fact Sheet incorrectly refers to the civil action number as 06-16-24 (sec). ***PRASA requests that the text be updated to refer to the civil action number 3:15-cv-02283.***

Response: Civil action number was revised to read as Civil Action No 3:15-CV 02283(JAG).

Comment 5: The Residual Chlorine limitation paragraph in PART II of the Fact Sheet incorrectly states that the Barceloneta RWWTP chlorinates its effluent and that the PRWQSR does not have a numeric water quality criterion for total residual chlorine. The paragraph is incorrectly numbered as A.11 instead of A.10. The Barceloneta RWWTP does not use chlorination to disinfect the effluent. The Barceloneta RWWTP equipment cleaning practices and wastewater from industrial dischargers have been identified as the sources of

measurable residual chlorine in the effluent. Further, Paragraph 1303.1.J.1 of the April 2019 PRWQSR includes a numerical limit for residual chlorine. ***PRASA recommends the text be revised to be consistent with the Barceloneta RWWTP treatment unit processes and the April 2019 PRWQSR.***

Response: The Residual Chlorine limitation paragraph was revised.

Comment 6: The table in Section B.1, *Outfall Number 001* in PART II of the Fact Sheet indicates that the data used to generate the table are from DMRs from January 2018 through December 2019. The table should be revised to address the following issues:

- a. There are multiple incorrect entries in the table stated as values for this data range (refer to attached document for a full list of corrected values).
- b. The limitations for BOD and TSS percent removal are based on the minimum removal, not the maximum removal; therefore, the minimum value in these two datasets should be presented, not the maximum values.
- c. The limitation for Enterococci is listed only as 130 µg/L. The limitation should be listed as 35 colonies/100 ml as a geomean and 130 colonies/100 ml (not µg/L) as the 90th percentile.
- d. Entries in the table for free cyanide, sulfide (as H₂S), and total nitrogen (as NO₂+NO₃+TKN) are based on data for total cyanide, total sulfide, and nitrogen (NO₂+NO₃+NH₃). The source data parameters are no longer regulated under the PRWQSR, but do represent suitable surrogates for the new parameters listed in the permit. Table notes should be added to the table for clarification. Recommended text is included in the attached document.

PRASA recommends correction of these items in the table and the addition of footnotes as indicated in the attached document.

Response:

- a. The table was updated to show wastewater data from DMRs dated July 31, 2016 to June 30, 2020.
- b. Typographical entries were revised.
- c. BOD and TSS values were revised.
- d. The limitation for Enterococci was revised.
- e. A note was added with an asterisk (*) that reads as follow: Interim limits are included in the permit's Compliance Plan (CP).

Comment 7: Section D. *Compliance with Federal Anti-Backsliding Requirements and Puerto Rico's Anti-Degradation Policy* in PART II of the Fact Sheet should be revised to address the following issues:

- a. Under the first bullet, the list of parameters to be removed from the permit should include arsenic, hexavalent chromium, total cyanide, iron, and nitrogen (as NO₂+NO₃+NH₃).
- b. Under the second bullet, parameters with more stringent requirements (that is, lead, silver, surfactants, and turbidity) should not be included in this list, and mercury and temperature should be added.
- c. Under the third bullet less stringent effluent limitations should not include pH and TSS; however, copper, lead, silver, surfactants, and turbidity should be added (all of which have mixing zones).
- d. Under the fourth bullet, copper and mercury should be removed and sulfide (as H₂S) and total nitrogen (NO₂+NO₃+TKN) should be added.

Response:

- a. Parameters were revised.
- b. Parameters with more stringent requirements were revised.
- c. Parameters with less stringent requirements were revised.
- d. Parameters were revised.