

Via Verde bullets:

- Under Section 404 of the Clean Water Act (CWA), a permit is required to discharge fill material over waters of the United States. This permit program prevents the degradation of aquatic resources. Applicants are required to analyze their projects in order to identify ways to avoid and/or minimize impacts to aquatic resources. On those instances when an applicant determines that impacts to aquatic resources are unavoidable, applicants are required to provide suitable compensatory mitigation projects to offset such impacts. Several federal agencies are involved in the Section 404 permit program. Applicants are encouraged to work closely with federal and state agencies to identify additional impact reduction measures and compensatory mitigation opportunities. Such discussions often extend well beyond the public comment period set by the USACE for individual permit applications. The U.S. Army Corps of Engineers (USACE) administers the day to day Section 404 permit program, developing policy and guidance, conducting and verifying jurisdictional determinations, and reaching permit decisions.
- The U.S. Environmental Protection Agency (EPA) is involved in the CWA Section 404 permit program by helping develop policy, guidance and criteria to evaluate permit applications. In addition, EPA reviews individual applications and provides comments to the USACE as part of the permitting process.
- On December 23, 2010 EPA issued a letter to the USACE objecting to the issuance of the Via Verde natural gas pipeline proposed by the Puerto Rico Electric power Authority (PREPA). After our initial letter, PREPA and its consultants actively pursued meetings with EPA as well as other agencies in order to assess their comments and discuss possible project alternatives. On April 1, 2011 EPA issued a follow-up letter to the USACE based on additional information furnished by PREPA and its consultants. On such letter, EPA deferred to the PREPA's expertise regarding the stability and control of Puerto Rico's electric power infrastructure, EPA requested the inclusion of language requiring the availability of highly trained technical personnel to assess possible impacts from directional drilling on aquatic resources (in the eventuality that the USACE reached the permit decision stage), and requested significant information regarding the project's right-of-way and compensatory mitigation. The evaluation of this required additional information would allow EPA to reach its final determination regarding the project, and to make further recommendations to the USACE, who are ultimately responsible for a final permit decision.
- EPA has worked hand-in-hand with USACE in the CWA Section 404 permit program since its inception. We look forward to discussing and resolving any issues arising from our April 1st letter with USACE, and to our continued collaboration.