

STATEMENT
U.S. Environmental Protection Agency (EPA)
Vía Verde Natural Gas Pipeline
April 26, 2011

The U.S. Army Corps of Engineers (USACE) is the federal agency responsible for issuing a permit for the Vía Verde Natural Gas Pipeline project. EPA's role, under Section 404 of the Clean Water Act (CWA), is to review the permit application to ensure that the project complies with the federal environmental regulations within our jurisdiction, and that it is conducted in a manner that protects public health and the environment. Our April 21, 2011 letter to the USACE reiterates the need for EPA to receive, for review and approval, additional information from the Puerto Rico Electric Power Authority (PREPA) to resolve our outstanding concerns. EPA has worked hand-in-hand with the USACE on the Clean Water Act permit program since its inception, and will continue to work closely with the USACE as the permit process for the Vía Verde project proceeds.

Background:

- 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. In 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. The 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 Clean Water Act 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 Vía Verde Natural Gas Pipeline proposed by PREPA. After our initial letter, PREPA and its consultants held meetings with EPA as well as other agencies to assess the 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. In the letter, 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 required additional information would allow EPA to complete the review of all CWA Section 404 requirements under our purview and to make further recommendations to the USACE, which is ultimately responsible for a final permit decision.