

# Recommendations for DNER Land Acquisition Proposal



A proposal for Ms. Damaris Delgado  
And the Department of Natural and Environmental Resources  
4 May 2010

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# Recommendations for DNER Land Acquisition Proposal

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## **Abstract**

This project analyzed the Puerto Rico Department of Natural and Environmental Resources' 2008 Land Acquisition Regulation. The team completed portions of Article VII, Section 1, of the Land Acquisition Regulation for Jobos Bay National Estuarine Research Reserve on the southern coast of Puerto Rico. This acquisition proposed adding three parcels of land to the reserve, to better protect the bay from commercial development pressures. From research and interviews conducted both at the DNER and Jobos Bay, the team developed an understanding of the regulation. The experience of researching and complying with the regulation enabled the team to make recommendations for future land acquisition proposals in the DNER.

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## **Authorship Page**

This project was completed through the combined efforts of all group members.

## Table of Contents

<b>Abstract</b> .....	<b>iii</b>
<b>Acknowledgments</b> .....	<b>iv</b>
<b>Authorship Page</b> .....	<b>v</b>
<b>List of Figures</b> .....	<b>viii</b>
<b>List of Tables</b> .....	<b>viii</b>
<b>Executive Summary</b> .....	<b>ix</b>
<b>Chapter 1: Introduction</b> .....	<b>- 1 -</b>
<b>Chapter 2: Background</b> .....	<b>- 3 -</b>
2.1 Jobos Bay National Estuarine Research Reserve.....	- 3 -
2.1.1 Estuaries Origins.....	- 4 -
2.1.2 Environmental Importance of Estuaries.....	- 6 -
2.1.3 Global Economic Importance of Estuaries.....	- 6 -
2.1.4 Important Flora of Jobos Bay, Puerto Rico.....	- 6 -
2.1.5 Important Fauna.....	- 10 -
2.2 Historical and Cultural Importance .....	- 12 -
2.2.1 Designation of Jobos Bay as a Natural Reserve .....	- 12 -
2.2.2 National Estuarine Research Reserve System.....	- 13 -
2.2.3 Reserve Regulation and Management .....	- 13 -
2.2.4 Reserve Preservation.....	- 14 -
2.3 Need for Acquisition of Lands in Jobos Bay .....	- 16 -
2.3.1 Land Use Conflicts .....	- 19 -
2.3.2 Development vs. Conservation.....	- 20 -
2.3.3 Benefits of DNER Acquisition .....	- 21 -
2.4 Acquisition Process .....	- 23 -
2.4.1 Regulations .....	- 23 -
2.4.2 Political and Economic Influence .....	- 24 -
2.4.3 “Ley 7”; Layoffs at the DNER .....	- 25 -
2.5 Summary: Jobos Bay Land Acquisition Proposal.....	- 26 -
<b>Chapter 3: Methodology</b> .....	<b>- 29 -</b>
3.1 Real Estate Acquisition Regulation.....	- 29 -
3.1.1 Parts a), b), & c).....	- 32 -
3.1.2 Parts d), e), & f) .....	- 34 -
3.1.3 Parts g), h), k), & l) .....	- 35 -
3.1.4 Parts i), j), m), & n).....	- 36 -
3.2 Summary .....	- 37 -
<b>Chapter 4: Results</b> .....	<b>- 38 -</b>
4.1 Current Progress of Land Acquisition Proposal.....	- 38 -
4.2 Completed and Started Parts .....	- 40 -
4.3 Delayed Parts .....	- 42 -
4.3.1 Surveys, Appraisals, and Building Plans .....	- 42 -
4.3.2 Part e): Planning Board Certification.....	- 44 -
4.3.3 Part d).....	- 46 -
4.3.4 Parts i), and f) .....	- 47 -
4.4 Recommendations for Future Land Acquisitions.....	- 47 -
4.4.1 Parts a), b), and c) .....	- 49 -

4.4.2 Parts d), g), h), k), and l) .....	- 50 -
4.4.3 Parts e), f), i), j), m), & n) .....	- 51 -
4.5 Summary .....	- 54 -
<b>Chapter 5: Conclusions</b> .....	<b>- 55 -</b>
5.1 Future Work .....	- 56 -
<b>References</b> .....	<b>- 58 -</b>
<b>Appendix A: Library of Acronyms</b> .....	<b>- 61 -</b>
<b>Appendix B: Completed and Started Parts</b> .....	<b>- 62 -</b>
Parts a) & b): Description of Project and Legal Justification .....	- 62 -
Part c): Names, Physical Addresses, and partial mailing addresses of all parties interested in acquisition .....	- 67 -
Part n): Images from the Team’s Visit to the Acquisition Lands .....	- 68 -
<b>Appendix C: Part m): Letter from the Secretary of the DNER</b> .....	<b>- 71 -</b>
<b>Appendix D: Planning Board Guide: Transacción de Terrenos</b> .....	<b>- 73 -</b>
<b>Appendix E: Land Transactions (Translation)</b> .....	<b>- 74 -</b>
<b>Appendix F: Planning Board Guide: Requisitos para las Solicitudes de Reaperturas y Enmiendas a Consultas de Ubicación</b> .....	<b>- 77 -</b>
<b>Appendix G: Requirements for request for reopening and Amendments to Inquiries Location (Translation)</b> .....	<b>- 78 -</b>
<b>Appendix H: Planning Board Guide: Instrucciones para la preparación del Polígono</b> - 80 -	
<b>Appendix I: Planning Board Guide: Instrucciones para la preparación del Expediente en papel</b> .....	<b>- 81 -</b>
<b>Appendix J: Instructions for preparing the paper record (Translation)</b> .....	<b>- 82 -</b>
<b>Appendix K: Planning Board Anejo I</b> .....	<b>- 84 -</b>
<b>Appendix L: Planning Board Anejo I (Translation)</b> .....	<b>- 85 -</b>
<b>Appendix M: RPA Form for Preliminary Approval</b> .....	<b>- 86 -</b>
<b>Appendix N: Planning Board Form JP-31A</b> .....	<b>- 88 -</b>
<b>Appendix O: Planning Board Form JP-31A (Other)</b> .....	<b>- 92 -</b>
<b>Appendix P: Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales</b> .....	<b>- 96 -</b>
<b>Appendix Q: Regulation for Real Estate Acquisition</b> .....	<b>- 122 -</b>
<b>Appendix R: Originating Law of the DNER</b> .....	<b>- 134 -</b>

## List of Figures

Figure 1: Brown Pelican in Isla Pajaros .....	- 4 -
Figure 2: Jobos Bay Islands (Laboy, 2002) .....	- 5 -
Figure 3: Mangrove Forest in Jobos Bay .....	- 7 -
Figure 4: White Mangrove Fruit .....	- 8 -
Figure 5: Salt Crystals on Grey Mangrove Leaf .....	- 9 -
Figure 6: Mangrove pneumatophores on Isla Pajaros .....	- 10 -
Figure 7: Elkhorn Coral (JBNERR, 2010) .....	- 10 -
Figure 8: West Indian Manatee (JBNERR, 2010) .....	- 11 -
Figure 9: Land Acquisition Priorities .....	- 16 -
Figure 10: Garbage on Cayo Ratones .....	- 17 -
Figure 11: Dock built on mangrove trees on Cayo Ratones .....	- 17 -
Figure 12: Shelter on Isla Pajaros .....	- 18 -
Figure 13: Cooking Station on Isla Pajaros .....	- 18 -
Figure 14: Salt Flats in Sucesión Vazquez .....	- 19 -
Figure 15: Parcels of Land in Jobos Bay .....	- 22 -
Figure 16: Organizational Chart .....	- 48 -
Figure 17: Part e): Planning Board Requirements for Certification .....	- 52 -

## List of Tables

Table 1: List of Endangered and Threatened Species .....	- 11 -
Table 2: SWMP Goals (NOAA 2007) .....	- 15 -
Table 3: Chart for Jobos Bay Acquisition Proposal .....	- 39 -

## Executive Summary

Designation of an area as a natural reserve is one of the most effective ways to ensure environmental protection. The Department of Natural and Environmental Resources (DNER) in Puerto Rico is charged with the management and monitoring of all activities that occur in the reserve and is responsible for the legal acquisition of the land to make sure that the area is completely safeguarded for environmental conservation. This project was designed to help the agency complete necessary steps towards the acquisition of land in Jobos Bay National Estuarine Research Reserve (JBNERR) on the south coast of Puerto Rico. With additional lands added to the reserve, JBNERR will provide more coastal access, leading to increased public awareness of environmental stewardship and a better visitor experience.

As Jobos Bay is a typical example of an arid Caribbean Estuary, where seawater and freshwater combine to form unique hydrological conditions, the team first researched the ecological importance of estuaries (Laboy, 2002). The bay is fed freshwater from an underground aquifer, leading to an estuarine environment whose salinity is very close to that of seawater's. These unique attributes provide for a rich diversity for life, in both flora and fauna, including endangered species such as the Antillean Manatee. These features enabled Jobos Bay to be accepted into the National Estuarine Research Reserve (NERR) system, designated in 1981 (JBNERR, 2010).

The team also researched the NERR system's goals and objectives to gain an understanding of how acquiring these lands would help to accomplish those goals. The goals of the National Estuarine Research Reserve system are to:

1. Strengthen the protection and management of representative estuarine ecosystems to advance estuarine conservation, research and education.
2. Increase the use of reserve science and sites to address priority coastal management issues.
3. Enhance people's ability and willingness to make informed decisions and take responsible actions that affect coastal communities and ecosystems (NOAA, 2010).

These goals are aimed to achieve the NERR's mission statement: "to practice and promote coastal and estuarine stewardship through innovative research and education, using a system of protected areas" (NOAA, 2010). Once the goals of the NERR system were understood, the system of management, known as the System Wide Monitoring Plan (SWMP), could be better understood (NOAA, 2007). The SWMP mandates that NERR reserves must have several data

stations for collecting water quality monitoring within the bay, including one continuously monitoring station that sends information by satellite every 15-30 minutes (NOAA, 2007).

To better support JBNERR's goals and programs, the DNER suggested several priorities for land acquisition, including the properties Cayo Ratones/Matias, Isla Pajaros, and Sucesión Vazquez. Each parcel would add valuable land to the reserve, increasing its ability to follow through with the NERR system's goals. Cayo Ratones/Matias was a priority, as the island was being used for tourism, damaging the mangroves, and bringing trash to the island. Isla Pajaros had similar concerns as Ratones, as people visit the small beaches between mangroves to have pig roasts, leaving garbage behind on the island. Sucesión Vazquez was considered to be one of the most important areas for acquisition as it is located directly behind the visitor's center of JBNERR. Ownership of this land would connect the JBNERR with the Aguirre State Forest, providing an ecological corridor, while also protecting mangrove forests and salt flats. Although these lands are very important to acquire for environmental protection, local communities may not always be in favor of government ownership, which can lead to land conflict disputes.

Creation of a natural reserve limits the activities allowed inside its boundaries and the debate between development and conservation of natural areas is quite heated. For example, on Isla Pajaros, the current owner brings tourist groups there, even though the island is not supposed to be used for commercial purposes. Locals may favor development as provides economic growth and stability; whereas the government would like to preserve the land for the benefits that come from having a natural environment, including an increased diversity of life that would be protected. Though it was important for the project team to understand the needs for land acquisition, a clear understanding of the legal process for the acquisition of land was vital for the completion of this project.

To acquire land, the DNER had to comply with the "Regulation for Real Estate Rights of the DNER." This project endeavored to complete the parts **a)** through **n)** in Article VII, Section 1 of this law, which became the team's methodology.

As the law for acquiring land was passed in 2008 and the Division of Coastal Zones, Reserves and Refuges had never completed the acquisition process in compliance with this new law, there were many areas that required research to understand. The result of this research was the completion of four parts of the proposal. The parts completed during this IQP included **a)**: a general description of the project, **b)**: benefits and legal justification for the acquisition, part **j)**,

which was not needed for this acquisition proposal because there was no exchange of land in the process. Part **m)** was the last item completed during this project, which was a draft letter from the Secretary of the DNER authorizing the acquisition project. There were two steps of the process that were started, but not completed. Part **c)** requested the name and physical address of all owners, and part **n)** was a ‘catch all clause’ requesting any other necessary documentation required by the Real Estate Division.

Many parts of the acquisition proposal were not started. The reasons varied, from time constraints to dependencies on other parts. Several parts were delayed because parts **g), h), k),** and **l)** were not completed. These steps required land surveys, site plans (if buildings are located on the parcel), and an appraisal of the property, along with appraisal reports for each property. Among the delayed parts were parts **e)** and **f)**; certifications from the Puerto Rico Planning Board and the Regulations and Permits Administration. After endeavoring to complete the process for acquisition, and researching the remaining steps, the project team could then make suggestions for future proposals.

From researching the DNER land acquisition process, the team was able to compile a recommended order of completion for future proposals. The first parts of the process, **a), b),** and **c)** need to be completed before the next parts of the proposal can be completed, including parts **g), h), k),** and **l)**. Parts **g), h), k),** and **l)** have the potential to be time consuming sections of the process, taking anywhere from two to four months to be finished. While appraisals, surveys, and site plans are being completed, it is recommended that the applicant also start part **d)**. Part **d)** requests that the applicant obtain the Planning Board decisions from any projects currently submitted. The next suggested parts are parts **e)** and **m)**. These parts request a Certification from the Planning Board approving the acquisition project. In order to complete part **e)**, there are many other requirements and documents that must be submitted. Part **m)** requires that the DNER Secretary approve the acquisition proposal. To get this approval, the applicant should submit a draft letter for the Secretary to sign. The next steps that should be started are parts **i), j),** and **n)**. These parts require a certification by the Division of Finance in the DNER stating the availability of funds for the acquisition. Any other documents required by the Real Estate Division would also be needed at that point, including any necessary maps or documents characterizing the area. The final step of the process is part **f)**, a certified copy of the resolution by the Regulations and Permits Administration authorizing the acquisition of the real estate property. It is suggested that

this be the last step because it requires information from almost all other steps in the process. After working on Article VII, Section 1 of the DNER land acquisition process, we hope that our suggestions may expedite future acquisitions by providing a clear model for the acquisition process.

## Chapter 1: Introduction

Despite difficult political and economical times, the Department of Natural and Environmental Resources (DNER) in Puerto Rico continues their mission to protect Puerto Rico's valuable natural treasures. Charged with protection and management of natural reserves, the Division of Coastal Reserves and Refuges in the DNER works with many other organizations and government agencies. A short list of collaborators includes the Planning Board, National Oceanic and Atmospheric Administration (NOAA), Regulations and Permits Administration (RPA), and the United States Fish and Wildlife Service (USFWS). These agencies rely on each other for support, approval, and evaluation. It is due to their tireless efforts that Puerto Rico's beaches, coral reefs, forests, lagoons, and countless other ecological treasures can be enjoyed by those who live in or visit Puerto Rico. However, not all of these natural wonders are protected by the DNER, and even the ones managed by the DNER are threatened by many factors. Coral reefs can bleach and die because of overly warm waters and pollution. Forests and beaches can suffer from harvesting of the trees or sand. Nature reserves protect critical natural habitats from the changes that urbanization and agriculture bring; adding more properties to the nature reserves enables the DNER to counteract these harmful forces.

Despite the benefits offered, there is often controversy surrounding the designation of new nature reserves. The creation of a nature reserve imposes restrictions on land use, which can result in negative economic repercussions for local residents. Specifically, a reserve can restrict the use of a coastal area for "construction, mineral development, energy, recreation, transportation, and commercial fishing" (CZMP, 2009). The difficulty in resolving these two competing interests, of protecting a natural resource versus increasing the prosperity of the island occasionally yields considerable controversy surrounding the creation of a nature reserve. A recent example underscores this challenge. The Northeast Ecological Corridor, or NEC, is a stretch of beach along the northern coast of Puerto Rico. The NEC is home to leatherback turtles, an endangered species that thrives along this stretch of beach (Crescioni, 2010). The NEC was proposed as a nature reserve in the Commonwealth of Puerto Rico House Bill 2105, and had substantial support from environmental groups (Crescioni, 2010). In 2007, the then-governor of Puerto Rico signed an executive order setting aside 3,107 acres of coastline of the NEC as a reserve. In November of 2009, Governor Fortuno, with the support of Planning Board president

Hector Morales, revoked the designation of the reserve (New York Times, 2009). The governor decided that it would be more to the benefit of Puerto Rico's economic development if resorts were allowed to use the area and create jobs. Maintaining balance between economic growth and environmental impact is very important when the DNER considers designating new land as a nature reserve.

The current economic situation in Puerto Rico has only increased the pressure to value economic development over land preservation. Since 2005, Puerto Rico's economy has been in a recession (Valdéz, 2010). The recession, combined with the huge debt carried by the government of Puerto Rico has prompted the government to try to reduce the debt, and to reduce the costs of operating programs. With decreased funding, forced layoffs, and pressures to reduce expenditures, protecting the natural resources of Puerto Rico has become much more difficult for the DNER.

Notwithstanding these pressures, the Division of Coasts, Reserves, and Refuges, has begun the process of land acquisition for Jobos Bay National Estuarine Research Reserve (JBNERR). The land acquisition project offers many benefits for the reserve, including increased waterfront access, and additional opportunities to increase public awareness for environmental stewardship. A current concern for the Division of Coasts, Reserves and Refuges is complying with the new "Regulation for the Acquisition of Land and Real Rights of the Department of Natural Resources and the Environment," which was recently passed. The process for acquisition proposals was changed in 2008, and the Division of Coasts, Reserves, and Refuges has not yet completed an acquisition under the new regulation. Because of the division's unfamiliarity with this law, the goals of this project were to complete the acquisition process for three properties near Jobos Bay, and to produce a comprehensive model to the acquisition law for future proposals. Deliverables for the project included a recommendation for future acquisitions, and a partially completed acquisition proposal for JBNERR. By completing parts of this new legislation, and researching the process within the DNER, this project team was able to explain the process for land acquisition proposals in the DNER. The guidelines and recommendations developed can assist future land acquisition proposals.

## **Chapter 2: Background**

Puerto Rico's natural reserves are a spectacular showcase of the natural beauty of the island, and the Jobos Bay National Estuarine Research Reserve (JBNERR) is no exception. It is a pristine example of a Caribbean estuary, and host to many exotic plants and animals. Protection of natural reserves such as the JBNERR necessitates the cooperation of many government and non-government agencies. These agencies often have varying goals and diverse management styles, but they all contribute to the preservation of Puerto Rico's natural reserves. These natural reserves are negatively affected by a variety of factors in and around the reserves including the pressure of commercial development, pollution of local habitats, and damage to important and protected environmental features. Such a situation is currently occurring in Jobos Bay, which led to this project. The goals of this project were to assist the DNER in complying with the land acquisition regulations to acquire three parcels of land surrounding Jobos Bay, and to provide guidelines for future DNER acquisition projects.

### **2.1 Jobos Bay National Estuarine Research Reserve**

Jobos Bay National Estuarine Research Reserve (JBNERR) is located on the southeast coast of Puerto Rico, between Salinas and Guayama. This natural reserve is important, as it is host to unique flora and fauna, such as the brown pelican found in Isla Pajaros, as seen in Figure 1. It is also important as a pristine example of a Caribbean estuary, and as such, is a part of NOAA's National Estuarine Research Reserve program. As it is designated as a National Estuarine Research Reserve (NERR), the JBNERR staff are able to complete research, initiate educational programs, and begin to enact objectives for community involvement. The reserve is host to facilities for water quality monitoring, housing for research staff, and an educational visitor center that describes the history of the area and the value of environmental conservation.



**Figure 1: Brown Pelican in Isla Pajaros**

The bay is physically distinctive, as it encompasses an area of roughly eleven square kilometers, making it the second largest estuary in Puerto Rico. Jobos Bay also covers more shoreline in Puerto Rico than any estuarine area, a location where seawater and freshwater meet to form a habitat for plants and animals (Laboy, 2002). At Jobos, as freshwater is fed to the bay from an underground aquifer and not a river, the effect that the freshwater has on the bay is diminished. Compared to a typical estuary, Jobos Bay is much saltier and closer to seawater salinity. This salinity yields an abundance of salt tolerant plants in the bay. JBNERR includes a 2,393-acre forest to the north and east of the bay, as well as eleven miles of water off of the coast. The reserve is covered primarily with mangrove forests, but also contains salt flats, algae beds, and sea grass beds. Coral reefs fringe the outlying islands, providing natural protection against storm surges and strong waves. These unique features need to be protected so that future generations will enjoy the natural beauty of the bay, and to enable the bay to continue functioning as a viable ecosystem.

### **2.1.1 Estuaries Origins**

Estuaries were created during the transition into the Holocene epoch, which is the most recent geological epoch beginning 11,700 years ago, concurrent with the beginnings of the human race in Mesopotamia (Sloss, 2005). At the beginning of the Holocene epoch, the earth's climate stabilized, causing glaciers to melt and flood the earth. The melting glaciers scarred the land with rapid flooding and retraction. The subsequent deformation of land is particularly

evident on low mountainous areas near the mouths of rivers feeding into larger bodies of water that began to grow marshlands, which in turn became estuaries.

NOAA classifies estuaries based on geology and on hydrology. The five geological classifications are: Coastal Plain, Bar-Built, Deltas, Tectonic, and Fjords, each type briefly described in NOAA's Estuary Tutorial (NOAA, 2008):

*Coastal plain estuaries, or drowned river valleys, are formed when rising sea levels flood existing river valleys. Bar-built estuaries are characterized by barrier beaches or islands that form parallel to the coastline and separate the estuary from the ocean. Barrier beaches and islands are formed by the accumulation of sand or sediments deposited by ocean waves. A delta, characterized by large, flat, fan-shaped deposits of sediment at the mouth of a river, occurs when sediments accumulate more rapidly than ocean currents can carry them away. When the Earth's tectonic plates run into or fold up underneath each other, they create depressions that form tectonic estuaries. Fjords are steep-walled river valleys created by advancing glaciers, which later became flooded with seawater as the glaciers retreated (NOAA, 2008).*

A hydrological classification of estuaries differentiates between five categories: Salt-Wedge, Fjord, Slightly Stratified, Vertically Mixed, and Freshwater (NOAA, 2008). They are ordered from most to least stratified. Hydrological stratification occurs when water of different density, oxygenation, salinity, and temperature mix and form barriers within the water. Fjord describes not only a geological trend, but also a hydrological one. JBNERR is classified as a Bar-built estuary because of the ring of islands and coral reefs that are parallel to the coastline. These islands that ring the bay are outlined in yellow in Figure 2.

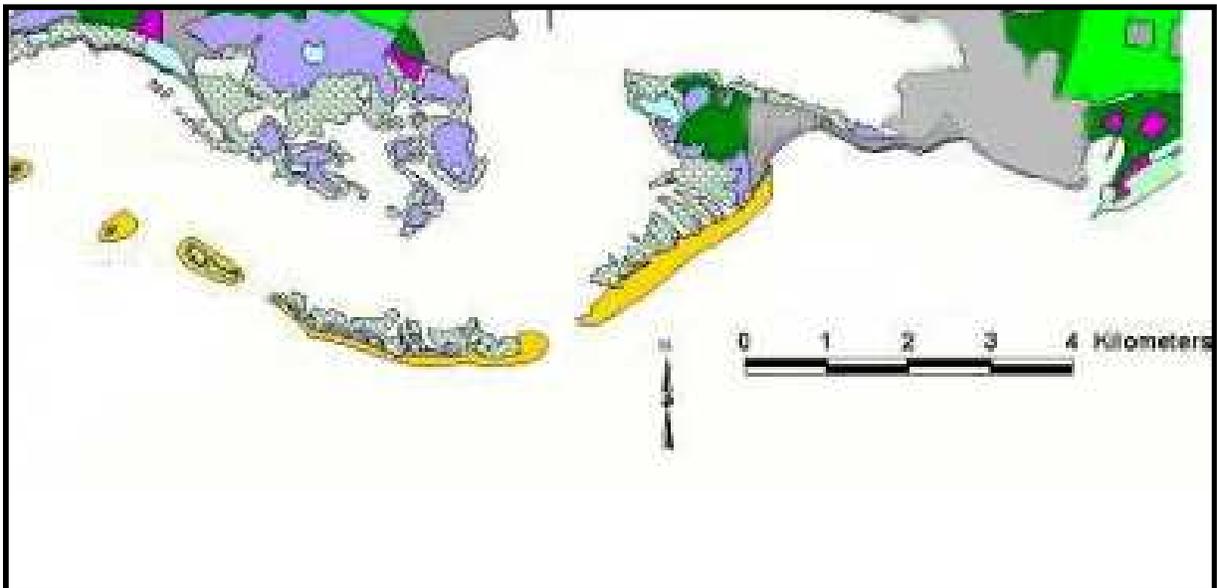


Figure 2: Jobos Bay Islands (Laboy, 2002)

### **2.1.2 Environmental Importance of Estuaries**

Estuaries have three major environmental features that necessitate protection and monitoring. The first important feature of an estuary is the number of animals and plants that can thrive in the habitat provided. Due to the proximity of larger bodies of water, ample flora, and unique water properties, special types of animals can thrive in estuaries. These animals include several endangered or sparsely populated species. Additionally, numerous species of birds, fish, and amphibians use estuaries as places of reproduction and migratory stops (NOAA, 2008). The second environmental feature is that estuaries are natural water filters (NOAA, 2008). As water flows into the estuary from the ocean or sea, it is filtered through the spongy marsh that composes a majority of the soil under the shoreline. This action not only filters the water coming in, but absorbs nutrients from the watershed area surrounding the estuary, making life possible in these areas (NOAA, 2008). The third feature is that estuaries provide stability to surrounding shorelines, creating a buffer zone from floods and storms. This allows people to create stable working communities around estuaries without constant fear of damage from floodwaters and hurricanes.

### **2.1.3 Global Economic Importance of Estuaries**

Estuaries provide many sources of income for neighboring communities. They are favorite spots for commercial and recreational fishing, generating billions of dollars each year from fish harvested from estuaries (NOAA, 2008). Additionally, estuaries are large centers for ecotourism, generating between \$8-12 billion dollars annually for the communities and agencies managing the estuaries (NOAA, 2008). Estuaries are also important centers of transportation and international commerce as many seafaring crafts traverse these areas daily, both commercial and private. Partial damage or bad health produces reduced income streams, but does not eliminate all income streams.

### **2.1.4 Important Flora of Jobos Bay, Puerto Rico**

The mangrove forests in Jobos Bay cover 42.6% of the total acreage in the reserve. These large forests also are approximately 25% of the total mangrove forests in Puerto Rico, making

this reserve important for conservation (Laboy, 2002). The mangrove is the dominant plant of the halophytes group, or salt tolerant trees. Other than halophytes, no other tree can grow in salt water. Mangrove forests, seen in Figure 3, act as reinforcement to soil, as the root system holds soil back from being washed out to sea. These roots also provide protection for animal species, as the forest bears the brunt of the tidal forces, sheltering the inner bay and mainland from harsh conditions. They also produce rich soil, adding landmass to the system around them and contributing nutrients to the ecosystem (Laboy, 2002). Those nutrients feed smaller animals, which in turn feed the larger fauna that inhabit the area. There are six physiographic types of mangrove forests, and three are found in Jobos Bay: basin, fringe, and overwash (Laboy, 2002).

Basin forests are the most inland of the three, rarely feeling the effects of the tide. They also experience the greatest change in salinity levels, having primarily freshwater during the wet season and seawater during the dry season (Laboy, 2002). The fringe forest constitutes the “middle” portion of the system, forming on the edges of lagoons and seaward entrances. The overwash forest exists the furthest offshore on calcareous platforms (Laboy, 2002). Both the fringe and overwash forests are flooded daily by the tides, constantly exposing them to the salinity of the ocean. Their formation depends solely on soil quality and tidal strength. These forests play a large role in the water temperature of the bay as they heat the water within the forest.



**Figure 3: Mangrove Forest in Jobos Bay**

There are three main types of mangroves found in the JBNERR: red, white, and black. Red mangrove forms the base of the mangrove forest, being the first of the species to place roots in an area. This plant is fast growing and in a short amount of time a small island will be formed entirely of mangroves. This “island” collects the water as it flows, slowing its movement and collecting soil particles in its network of roots. This gathering of soil continues to slow the movement of water, shielding the bay from the harsh tidal waves. This species makes up most of the shoreline of Jobos Bay and can grow to be quite large and entangled (Laboy, 2002).

As areas of a red mangrove forest expand and are exposed to greater freshwater than salt water from the incoming watershed and rivers, white mangrove will grow over the red. The white mangrove, characterized by its greenish white pentamerous flowers, each with ten stamens and two ovate bracteoles, needs a greater salt-free environment to survive, and is found predominantly in the basin forest close to shore. The flowers are supported on a terminal panicle or solitary spike emerging from the leaf axil which can be seen in Figure 4 (Laboy, 2002). The white mangrove bears fruit which then falls into the water and floats for a period of approximately four weeks. Once the fruit sinks, the seeds begin to grow and produce more mangroves. The ability of mangroves to colonize is impressive, with seedlings capable of surviving up to a year from the time they drop to the water until they root themselves.



**Figure 4: White Mangrove Fruit**

When red mangrove forests expand towards the sea and are exposed to more salt water, the black mangrove will dominate, as they grow further out, towards the sea. It does not need the salt to thrive, but unlike the white, it can survive in high salinity conditions. The site profile for

Jobos Bay archived by the DNER states that, “under high salinity conditions, structural development [of the black mangrove] is suppressed and [its] leaves excrete salt through specialized glands” (Laboy, 2002). Figure 5, while depicting a grey mangrove, a species not found in Jobos Bay, provides an example of this occurrence.



**Figure 5: Salt Crystals on Grey Mangrove Leaf**

While the black mangrove is overall a very resilient plant, it is susceptible to tidal forces. Over-submersion and drought can kill this species quickly (Laboy, 2002).

Both the black and white mangroves use a system of pneumatophores, a network of aerial roots that allow the plants to breathe in a waterlogged environment. Pneumatophores are not unique to mangroves but are highly characteristic of them. Systems of pneumatophores can be found on shorelines of islands covered in mangroves, such as Isla Pajaros in Jobos Bay, as seen in Figure 6. These roots extend out from the base of the plant to supply oxygen to the plant and help anchor it against the tide (Laboy, 2002).



Figure 6: Mangrove pneumatophores on Isla Pajaros

### 2.1.5 Important Fauna

The coral reef found at Jobos Bay is a typical Caribbean reef. It requires very specific conditions to survive and has a very small window of tolerability in water temperature, salinity, movement, and transparency (Laboy, 2002). Typical types of coral reef found in Jobos Bay are finger coral, fire coral, zoanthids, elkhorn coral, and brain coral. The coral reef in Jobos Bay offers food and shelter to the animals in and around the reef. The elkhorn coral in Figure 7 is one of the threatened species found in the bay.



Figure 7: Elkhorn Coral (JBNERR, 2010)

There are a total of ten species that are threatened or endangered within the Jobos Bay area, the majority of which are birds. Table 1 outlines the animals within Jobos Bay that are currently under protection and their status, the West Indian Manatees being the most endangered from the list (DNER, 2010).

Common Name	Scientific Name	Status
Brown Pelican	<i>Pelecanus occidentalis</i>	Endangered
Peregrine Falcon	<i>Falco peregrinus</i>	Endangered
Puerto Rican Plain Pigeon	<i>Columba inornata</i>	Endangered
Roseate Tern	<i>Sterna dougalli</i>	Threatened
Yellow-shouldered Blackbird	<i>Agelaius xanthomus</i>	Endangered
Hawksbill Sea Turtle	<i>Eretmochelys imbricata</i>	Endangered
Green Sea Turtle	<i>Chelonia mydas</i>	Threatened
Leatherback Sea Turtle	<i>Dermochelys coriacea</i>	Endangered
West Indian Manatee	<i>Trichechus manatus</i>	Endangered
Elkhorn Coral	<i>Acropora palmata</i>	Threatened

Table 1: List of Endangered and Threatened Species



Figure 8: West Indian Manatee (JBNERR, 2010)

## **2.2 Historical and Cultural Importance**

The history of Jobos Bay and the surrounding towns adds a fascinating backdrop to the natural beauty present in the reserve. Jobos Bay is located in two municipalities, Salinas and Guayama. Archeological findings indicate that the Taínos people once lived in Salinas on the same land where the Aguirre Sugar Mill was located. In recognition of the area's unique history, Aguirre was designated as a State Historic District. Currently, the towns of Salinas and Guayama are home to farms, pharmaceutical companies, along with an energy plant that generates electricity for the bay. Both the Museum of Sports History and the Olympic training center are located in Salinas. Aguirre State Forest, a protected area since 1918, has trails and camping opportunities, adjacent to Jobos Bay.

### **2.2.1 Designation of Jobos Bay as a Natural Reserve**

In the 1970's, when the Organization of Petroleum Exporting Countries (OPEC), imposed an oil embargo resulting in an energy crisis, Jobos Bay was considered for the development of an oil refinery port (JBNERR, 2009). Once the embargo was lifted, interest in the development of the area ceased (JBNERR, 2009). Additionally, The Puerto Rico Environmental Policy Act was passed in 1970. One of the main outcomes of the Puerto Rico Environmental Policy Act was the creation of the Puerto Rico Department of Natural and Environmental Resources, which paved the way for the designation of Jobos Bay as a natural reserve in 1981.

In early 1981, the DNER submitted an application to the National Oceanic and Atmospheric Administration (NOAA) to establish an estuarine sanctuary in Jobos Bay (JBNERR, 2010). The application asked for 1205 acres from the Aguirre Sugar Mill property on the northern side of the bay. NOAA requires that the DNER must match any Federal funds given with equal amounts of State funds. To comply with this regulation, the DNER amended its plan to include 15 of the Cayos Caribe, a group of 17 islands in the bay into the acquisition plan (JBNERR, 2010). NOAA approved funding for the acquisition, but required that two of the seventeen islands of Cayos Caribe be incorporated into the Aguirre State Forest (JBNERR, 2010).

### **2.2.2 National Estuarine Research Reserve System**

Once Jobos Bay was designated as a reserve, the DNER wanted the reserve to be accepted into the National Estuarine Research Reserve program (NERR). The NERR program is competitive and selective due to limited funds. NOAA protects estuaries in many different regions of the United States, in order to protect as many different types of estuaries as possible. NOAA's funds and management support also needed to be directed towards pristine estuaries, so that effects from human impacts will be minimal. After careful consideration of many sites throughout Puerto Rico, including the Río Espíritu Santo and Laguna Tortuguero reserves by NOAA's Office of Ocean and Coastal Resource Management (OCRM) and the DNER, Jobos Bay was accepted into the NERR program in September of 1981 by NOAA (JBNERR, 2010).

The National Estuarine Research Reserve System was created under the Coastal Zone Management Act of 1972 section 315 (NOAA, 2009). The mission, as stated on the NERRS homepage is "to practice and promote coastal and estuarine stewardship through innovative research and education, using a system of protected areas" (NOAA, 2010). The NERRS fulfills its mission by trying to complete three goals. These goals, which are reflected in all of the reserves that operate under the NERRS, including the Jobos Bay Reserve, are to:

1. Strengthen the protection and management of representative estuarine ecosystems to advance estuarine conservation, research and education.
2. Increase the use of reserve science and sites to address priority coastal management issues.
3. Enhance people's ability and willingness to make informed decisions and take responsible actions that affect coastal communities and ecosystems (NOAA, 2010).

### **2.2.3 Reserve Regulation and Management**

Once a reserve is created in Puerto Rico, the responsibility for management lies primarily in the hands of the DNER. The specific responsibilities for regulation and management of Puerto Rico's natural and marine reserves along the coast are detailed in the Coastal Zone Management Program document, updated in 2009. The DNER must work in conjunction with the Planning Boards of the municipalities where the reserves are located to create regulations for the reserve. The Planning Boards' land use plans serve as a basis for zoning maps, and their regulations become effective once signed by the Governor of Puerto Rico (DNER, 2009). The Planning

Board has responsibility for overall policymaking and for development of land use plans for all of Puerto Rico's natural reserves (DNER, 2009).

As a National Estuarine Research Reserve (NERR), the management of the reserve is primarily the DNER's responsibility, but NOAA is responsible for important decisions about JBNERR's regulation and conservation. This dual management allows Jobos Bay to qualify for matching federal funds for any activities or projects at the reserve, including land acquisition.

#### **2.2.4 Reserve Preservation**

The Jobos Bay National Estuarine Research Reserve participates in a program called the System-Wide Monitoring Program (SWMP) to regulate the reserve in accordance with NOAA's requirements (NOAA, 2007). The program lists specific objectives for NERR's education and environmental stewardship. According to the SWMP 2007 document, the mission statement of the SWMP is to:

*Develop quantitative measurements of short-term variability and long-term changes in the water quality, biotic diversity, and land-use / land -cover characteristics of estuaries and estuarine ecosystems for the purposes of contributing to effective coastal zone management (SWMP, 2007).*

Many different goals must be met to make NERRs successful in completing the SWMP mission statement. The following table shows the goals needed to achieve that mission (NOAA, 2007).

<b>Goal</b>	<b>Result</b>
<b><i>Coordination, Cooperation, and Support</i></b>	Maintain national-level coordination, interoperability, and the institutional infrastructure required to develop, improve, and sustain the monitoring program within NOAA and in cooperation with the network of coastal states and NERR sites
<b><i>Data Collection</i></b>	Provide continuous on-site operation of the monitoring program at the NERR field sites including provision of adequate financial support, personnel, training, equipment, facilities
<b>Database Management, Informatics, and Access</b>	Operation of a centralized programmatic database that meets national standards for data archival, metadata, and quality assurance, and provides an efficient and effective portal for data access and interpretation
<b>Understanding and Data Synthesis</b>	Periodic data synthesis and analysis to address coastal management questions and provide analytical information that is relevant to address national, regional, local issues
<b>Legacy for the Future</b>	Adoption of rigorous quality control standards, collection protocols, and archival procedures to ensure that data are available in the future for retrospective analyses, modeling, and ecological forecasting
<b>Communication, Education, Technical Transfer, and Outreach</b>	Promote and facilitate internal communications as well as awareness, training, and utility of the products generated by the monitoring program to a broad external audience of scientists, resource managers, policymakers, school groups, and public stakeholders

**Table 2: SWMP Goals (NOAA 2007)**

The data collection stations of the SWMP system gather data every 15-30 minutes. As the data is taken so frequently, the information about the health of the reserve is quite accurate and permits scientists to understand more about how environmental factors are interdependent (or inter-related) (NOAA, 2009). To complement the SWMP, many reserves (including Jobos Bay) offer a Graduate Research Fellowship Program that offers graduate students a stipend and the opportunity to conduct research in the reserve system. This research also contributes to the research and scientific understanding of estuary ecosystems (NOAA, 2009).

### 2.3 Need for Acquisition of Lands in Jobs Bay

The Jobs Bay's Management Plan of 2010 outlines which lands around the bay are most important for acquisition. These include Cayos de Barca, Cayo Ratonés (Matias), Isla Pajaros, a mangrove forest by Mar Negro, and the parcel of land behind the Visitors Center, Sucesión Vazquez. Shown below is a map (2010 Management Plan) with the acquisition priorities outlined. The top three acquisition priorities include Isla Pajaros, Cayo Ratonés, and Sucesión Vazquez, which are numbers three, one, and twelve. The red areas outlined in Figure 9 are lands currently in possession of JBNERR.

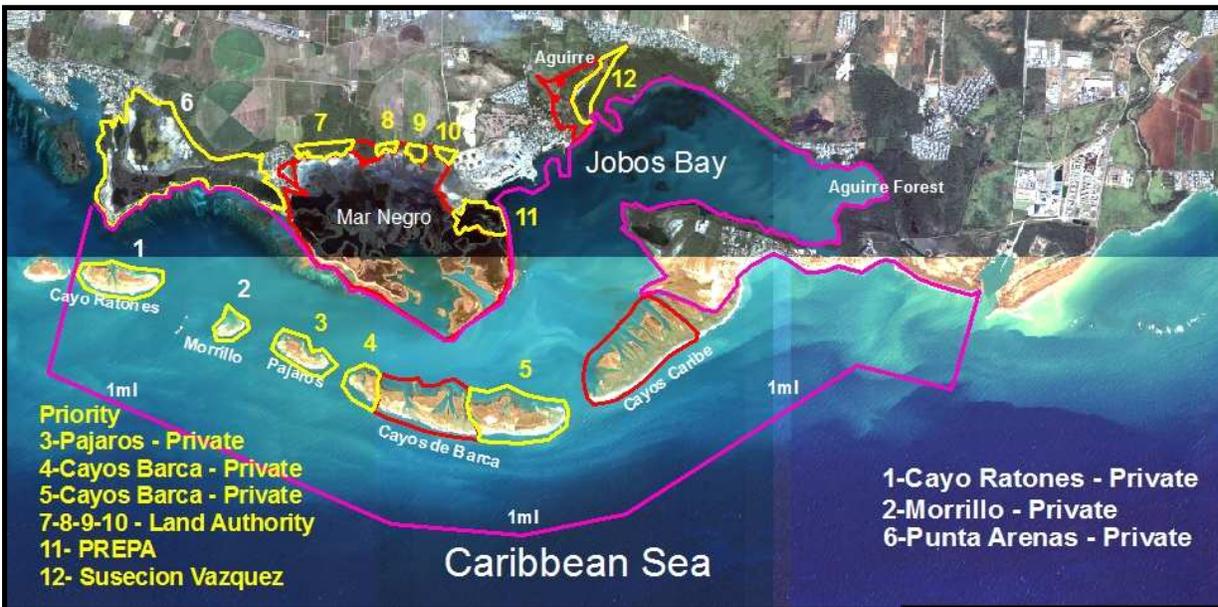


Figure 9: Land Acquisition Priorities

Cayo Ratonés is now a priority for acquisition because the owner brings tourists to an area that has no bathrooms, and who leave large amounts of trash behind that the owner does not remove. The effect this has on the water quality is easily visible, as evidenced by algae growth during the team's visit. The visitors also leave garbage on the beach, in the roots of the mangroves, and in the waterways around the island. A picture of garbage left behind can be seen in Figure 11. Another tourism issue is the damage done to the mangroves, coral reef, and sea grass, as well as problems with water quality, such as decreased water quality due to lack of public restroom facilities. For example, the dock on Cayo Ratonés/Matias shown in Figure 12 was built on top of mangroves, causing visible damage to the tree.



**Figure 10: Garbage on Cayo Ratones**



**Figure 11: Dock built on mangrove trees on Cayo Ratones**

Another DNER acquisition priority is Isla Pajaros (property 3 in Figure 9), as it is likely to succumb to the problems currently seen at Cayo Ratones. When the project team visited the island, we found a small amount of garbage, evidence of cooking stations, a makeshift shelter, and a small dock built onto mangroves. The shelter and cooking station can be seen in Figures 12 and 13 below, which give evidence for acquisition need.



Figure 12: Shelter on Isla Pajaros



Figure 13: Cooking Station on Isla Pajaros

The final acquisition priority for this project is Sucesión Vazquez. This is an area behind the Visitors' Center (located in the red outlined parcel, labeled Aguirre in Figure 9), which will provide several benefits for the reserve. One of the most important features this land would provide is an ecological corridor, by connecting the JBNERR to the Aguirre State Forest. Aguirre State Forest is shown in Figure 9, to the right of Sucesión Vazquez. Sucesión Vazquez also has mangrove forests, salt flats, as seen in Figure 15, and lagoons, which provide habitats for a diverse variety of flora and fauna. All of these habitats would be a valuable addition to JBNERR, and would preserve the unique habitats on the south side of Puerto Rico.



Figure 14: Salt Flats in Sucesión Vazquez

### 2.3.1 Land Use Conflicts

As mentioned in the previous sections, human actions can have detrimental effects on natural reserves, even if these actions do not take place inside the reserve land. Due to the unique habitats contained within nature reserves, land use in and around reserves must be carefully limited to protect the land, the water quality, and the rare and diverse forms of life that live in the reserves. There are many types of human activities that can cause damage to reserve ecosystems. Such activities include nearby agriculture, which introduces excess nutrients and pesticides into the bay waters, and tourism, which can be damaging to the plants, animals and environment in varied ways. Tourism in the Jobos Bay area, specifically in Cayo Ratones is one such example. The island is owned privately, and tourists are brought to the island to enjoy the small beaches among the mangroves. Environmental damage results from activities such as tourists leaving piles of garbage and the owner cutting the mangroves to build a dock for easier tourist access.

Limiting land use in and around natural reserves, perhaps one of the most effective ways to protect the reserve, can be controversial to both residents and visitors, as the area could be valuable both economically and culturally (DNER, 2009). Such land conflicts have occurred in Puerto Rico in the past. For example, "...in La Parguera Natural Reserve, there is a problem with residences built on assets of maritime public domain..." (DNER, 2009). As the DNER cannot prove that the residents do not own the land, there is an ongoing struggle with the residents to

resolve the conflict. The problem in La Parguera demonstrates the need for a detailed and exact process to be followed when the DNER acquires land for a reserve. Land acquisition is a solution preferred by many conservation groups, because without ownership rights, protection attempts may be hindered or ignored.

### **2.3.2 Development vs. Conservation**

Protection of natural areas is not always popular. Opposition to the creation of a natural reserve usually originates from those who would prefer to commercially develop the land. It is often claimed that commercial development is good for the economy, while protection drains taxpayers of their money. The costs of conservation that are immediately evident include the cost of buying the land, and the lost tax revenue once the land is no longer privately owned. However, the benefits of land conservation can substantially outweigh the costs. As explained in the 2009 Economic Benefits of Parks and Open Space report published by the Trust for Public Land, the benefits come from a variety of sources. Lost property taxes can usually be recovered within a few years because the property value of the surrounding areas will increase due to the creation of the park or nature reserve (Gies, 2009). As an example, Chicago's Millennium Park was paid for in part by the increased property tax revenue on the nearby homes whose value went up after the creation of the park. Living in close proximity to a beautiful area like Jobos Bay could improve the property taxes in a similar fashion, if the lands are effectively protected and conserved.

More importantly for the conservation of an area like Jobos Bay is the cost of replacing the services that natural areas provide, such as climate regulation, clean air, and storm buffer zones. Coral reefs, watersheds and flood plains are all incredibly valuable in mitigating the effects of storms and flooding. A specific example of the dollar value that natural services have is clear in a 2002 study performed by the Trust for Public Land and the American Water Works Association. The study of 27 water suppliers showed that the more forest cover a watershed has, the less the water treatment costs (Gies, 2009), substantiating the forest's ability to cleanse the water. Roots can filter the water, plants and algae consume nutrients and bacteria decompose organic material, all of which would have to be removed through man-made filtration systems. The mangrove forests in Jobos Bay are extremely effective in cleansing and filtering the water in the bay through their root system. Another service that nature performs more inexpensively than

any man-made options is storm damage control (Gies, 2009). This includes flood plains, which allow flooding without excess damage to the area (Gies, 2009), as well as coral reefs, which diminish the impact of waves from storms (Laboy, 2002).

A report by Robert Costanza “The Value of the World’s Ecosystem Services and Natural Capital” estimated the value of all the services performed by natural resources, if they were to be either restored or replaced (e.g., replacing wetlands with water filtration plants), at \$33 trillion US dollars each year (Costanza, 1997). This estimate clearly identifies the large contribution that ecosystems make to human and environmental wellbeing. When the costs of purchasing the land are compared with the lost benefits of the natural ecosystems, the purchase and setting aside land for a nature reserve proves to be less costly.

### **2.3.3 Benefits of DNER Acquisition**

In order to improve their ability to protect JBNERR, the DNER has set the aforementioned lands as priorities for acquisition. The expansion to include the parcel behind the visitors’ center, Sucesión Vazquez, will allow better access to the bay, and will allow visitors a more diverse educational and recreational experience. Expanding the boundaries of the reserve to include the Cayo Ratones and Pajaros islands will make protecting the bay simpler. The islands support mangrove growth, and are fringed by coral reefs. By expanding the boundaries of the reserve, the JBNERR will be able to protect the salt flats, mangroves, lagoons and other wetlands of the areas. These areas are habitats for a large number of species. By gaining control over these areas, the reserve managers will be able to better protect these species. In Figure 16 below, the three land parcels this project is working to acquire are as follows from left to right (circled in yellow): Cayo Ratones, Isla Pajaros, and Sucesión Vazquez.



Figure 15: Parcels of Land in Jobos Bay

The three properties that the DNER would like to acquire offer many benefits for the JBNERR. Sucesión Vazquez, 92.64 acres behind the visitor’s center, offers an additional buffer area and the opportunity for the reserve to better manage the variety of mangrove forests and salt flats that are inherent to the property. By including the Sucesión Vazquez lands, the DNER will establish a biological corridor connecting the two protected areas, giving the DNER more control over how those areas are safeguarded.

The two islands, Cayo Ratones and Isla Pajaros have mangrove forests, and are fringed by coral reefs. The islands are surrounded by reserve property because the 2005 extension of the boundaries to include one mile from the coastline extended past the islands. These islands are also protected areas, and have no access or major development opportunities, despite the fact that they are privately owned. This is because any development in the area would be damaging to the mangroves, the water quality, and to the endangered animals in the area. Due to the development pressure, and the importance of the islands, the DNER would like to purchase the property to ensure the flora and fauna’s protection.

## 2.4 Acquisition Process

Several laws, primarily the “Ley Orgánica del Departamento de Recursos Naturales y Ambientales” and several subsequent amendments regulate the DNER’s activities. Prior to 2008, the land acquisition process for a reserve was not specifically laid out in a law. However, in 2008, the “Reglamento Para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales” was passed. The Division of Coastal Zone, Reserves and Refuges, is currently applying for acquisition in Jobos Bay. The director of this division, Ms. Damaris Delgado has taken on the responsibility of complying with Section 1, Article VII, of this law, which begins the process. Since the most recent DNER acquisitions were accomplished in 2005, the Coastal Zone, Reserves and Refuges Division has no experience with the acquisition requirements under the 2008 law. This project’s experience of complying with the DNER land acquisition process not only furthers the acquisition process for JBNERR, but also is intended to serve as an example and guide for future DNER land acquisition proposals.

### 2.4.1 Regulations

In order to acquire the land, the DNER must comply with the “Regulation for Real Estate Rights of the DNER”. This 2008 DNER regulation details the steps required for land acquisition that either creates or adds to a natural reserve. The requirements were signed by the secretary and made law on December 5, 2008. The regulation has thirteen articles that regulate the acquisition of real estate. Articles V through VII are those relevant to this project. Article V states which types of property are eligible for DNER’s acquisition processes.

*These include, but are not limited to, property that would promote flood prevention, conservation of rivers and streams, forest conservation, lands dedicated to public use, protection of land with high ecological value, and conservation of native wildlife species (DNER, 2008).*

There are two supporting articles that go on to list the specific criteria that must be satisfied by the ‘petitioning party’ before the proposal is accepted by the Real Estate Division. Article VI states that the Division of Real Estate is responsible for verification of all documentation included in an acquisition proposal. Article VII, Section 1 has parts (a) through (n), which are the parts this project will complete. These parts mandate that a proposal for land acquisition be submitted in compliance with the law. The proposal must have clear descriptions

of the property, explanation of the legal base for acquiring the property, and various surveys, maps, and measurements of the land by registered and licensed professional surveyors.

Sections 2 and 3 of Article VII describe the steps that the Real Estate Division must follow when accepting or rejecting a proposal. Sections 4, 5, and 6 detail the steps that must be taken when an acquisition proposal is accepted, depending on the type of acquisition process that will be utilized. The DNER can buy the property directly, which is regulated by Section 4, or it can trade property that they currently own in order to gain ownership rights to other property, which is regulated by Section 6. Section 5 regulates the ‘expropriation’ process, by which the land is condemned and the state will use Eminent Domain in order to purchase the land. Expropriation means to take private land by public authority. When using this process, not only does the DNER have to comply with Section 5 of Article VII of this law, but also referenced in part (b) of the section is the “Ley de Expropiación Forzosa” of 1903. The requirement (b) states that the process must also comply with the 1903 law when acquiring land through expropriation.

This project complies with Section 1 of Article VII; to describe the area, and to contact people to obtain the necessary surveys and other required legal documents. The Real Estate Division will then follow Sections 2 and 3, and if the Secretary accepts the proposal, will carry out the acquisition.

#### **2.4.2 Political and Economic Influence**

Puerto Rico’s economic situation has a large effect on how the DNER, the Planning Board, and other government agencies are able to function. The economy of Puerto Rico has been in a recession since March of 2006, when the number of manufacturing jobs started to decline (Valdéz, 2010). According to the Executive Director of the Office of Management and Budget of the Commonwealth of Puerto Rico, Armando A. Valdéz Prieto, the budget deficits for the Puerto Rican Government have been increasing steadily as Puerto Rico has been sinking into recession. Prieto claims that the current economic situation in Puerto Rico is worse than it has been since the 1930’s. In response, the Governor of Puerto Rico has taken several steps, including cutting budgets for most government agencies, and passing the controversial “Ley 7”, which authorized thousands of layoffs. The effect of the economic situation on the efforts to conserve natural lands has been detrimental in many ways.

### 2.4.3 “Ley 7”; Layoffs at the DNER

In March of 2009, Governor Fortuño proposed and passed “Ley Especial Declarando Estado de Emergencia Fiscal y Estableciendo Plan Integral de Estabilización Fiscal para Salvar el Crédito de Puerto Rico”, commonly known as “Ley 7”. This law was intended to stabilize the economy, eliminate the structural debt, and allow the government to help improve the economy of Puerto Rico. The law has several sections, the first of which declares a fiscal emergency for the government, and the remainder that attempt to fix this emergency. The opening sections are various tax increases, with the most controversial sections mandating mass layoffs. The layoffs follow a three-stage plan. Stage one is a voluntary retirement incentives program, giving employees extra severance pay depending on years worked for the agency. Stage two involves involuntary severance, first for all temporary and part time workers, then for workers with least seniority. The layoffs are included as a way to decrease the debt for the Government of Puerto Rico because, according to Armando A. Valdéz Prieto, in 2008, the “public administration employment accounted for 23% of total employment in Puerto Rico” (Valdéz, 2010). Stage three involves the “suspension of any clause, provision, and or provision in legislation” that allows paid leave, fringe benefits, paid education benefits, or increased wages, among many others (Fortuño, 2009). The loss of all these benefits is essentially a pay cut for every government employee.

The first stage of layoffs started in October 2009, sparking many protests and strikes against the Fortuño administration’s changes (Castillo, 2009). The second stage of layoffs, in March 2010, garnered more protests, with a rally in support of the laid off workers occurring at the DNER building Friday, April 9<sup>th</sup>. The layoffs were especially damaging to the DNER, because although there are many agencies to which these layoff requirements apply, many of those agencies are exempt. Armando A. Valdéz Prieto explains that the layoff program “excluded 99,600 public workers for various reasons, such as security, health and education” (Valdéz, 2010). This exclusion left only 53,900 workers as potential targets for this layoff program, and he estimates there are 25,000 workers laid off to date (Valdéz, 2010). The DNER was not exempt from these layoff requirements, and lost many employees in both October 2009 and March 2010. An estimate from the Human Resources Office of Employee Development is

that 245 employees from the DNER were laid off, not including all of the employees whose contracts were simply not renewed. This loss of staff throughout the Department has left large gaps in all areas, with some divisions retaining only one person. The fallout from these firings has also left gaps in responsibilities, which necessitated transfers and reorganization of divisions. People have been transferred to divisions where their expertise may not apply. One example is a biologist, whose focus is on avian life, is now working with the forestry division because they were short of workers.

The loss of workers has left the DNER with many organizational issues. Several divisions do not have the same capabilities as they had in the past and this has resulted in responsibilities becoming unclear between workers. Ms. Mabel Rivera's division is an example of the effect the layoffs have had on the DNER. She works in the Real Estate Division, which has been reduced to only two workers; Ms. Rivera and her secretary. The responsibilities of this division are more than two people can handle, and this has resulted in other divisions aiding with some of the work. Lack of information organization has also resulted from these layoffs. Frequently one encountered a situation where someone was laid off, and left a box full of papers and information, and the workers left behind are not sure of what information is there. Simply recovering from a layoff period is difficult for any organization. Since the layoffs were applied through the criteria of seniority, as Ley 7 directed, the DNER lost many people who were vital to the agency, rather than the employees it could most afford to lose.

These layoffs have also had a large effect on the progress of this IQP report. As organization and clear responsibilities were intermittently lacking, it has been occasionally difficult to obtain clear information about the land, or the policies involved in land acquisition. Despite these unfortunate circumstances, those at the DNER have been exceptionally helpful and welcoming to our team. When time could finally be arranged to meet, the employees have provided us with as much assistance as possible with our project.

## **2.5 Summary: Jobos Bay Land Acquisition Proposal**

The research presented in this chapter represents the background of knowledge for the acquisition of land in Jobos Bay. Studying the JBNERR itself provided a general history of the

reserve, and illuminated its importance to the Commonwealth of Puerto Rico and the United States. Examining the history of the Jobos Bay area revealed a rich history before and after the arrival of Europeans in the area. Taínos culture in the area strengthens the argument that the area should be protected to retain and pass on knowledge to future generations about their interesting culture. The Aguirre Sugar Mill dominated Jobos Bay's history in the twentieth century and provided economic opportunity and growth for the region. The establishment of the mill eventually led to the creation of JBNERR through the sale of lands to the DNER (JBNERR, 2009). The creation of the reserve also shed light on the process of land acquisition for the reserve, because some of the policies in place in 1981 are still used today, such as the NOAA matching funds requirement.

The goals of NOAA's NERR program are very specific. The acquisition of land for Jobos Bay would improve protection of the estuary, and is included in Jobos Bay's Management Plan (NOAA, 2010). Acquisition priority is given to parcels of land that are considered to be the most important or threatened areas. The need for acquisition varies for each area. Isla Pajaros and Cayo Ratones are high priorities because they are under threat from possible development for tourist activities, which could destroy natural environments such as the mangrove forest. Acquisition of Sucesión Vazquez would enable increased community outreach because it would provide increased access to Jobos Bay for educational boat trips. By exploring the conflict between development and conservation, we discovered the varied benefits offered by conservation. Development provides an opportunity for economic gain, while conservation limits permitted activities inside a reserve. In Cayo Ratones, the owner of the island has destroyed portions of the mangrove forest and brought many tourists who bring trash and damage the environment in a variety of ways. The issue is that one person is benefiting from this 'development' opportunity, while the natural habitat suffers. Continuing tourist trips to the islands as the owner of Cayo Ratones currently encourages, would eventually destroy the natural beauty of the bay, removing any reason for tourist visits to the bay. Protecting the islands and conserving the area guarantees that the water quality and health of the ecosystems can be preserved for many more years.

In order to complete this acquisition proposal, the project team researched the acquisition process used at the DNER. The recently passed law that regulates the process of land acquisition within the DNER is the guiding document for the project. The law it outlined specifies steps that

must be taken to acquire land by a variety of means. While researching the acquisition requirements, gaps of information and responsibilities within the DNER were encountered, which can primarily be attributed to Law 7. This law took effect in March of 2009, and aimed to decrease the debt that the Puerto Rican government was incurring, by mandating tax increases and government sector layoffs (Valdéz, 2010). This resulted in the “laying-off” of around 250 employees who worked at the DNER, the first wave coming in October 2009, and the second wave in March of 2010. The consequence of these lay-offs is that the DNER has fewer staff t; with the same workload as before Law 7 was enacted. By completing several steps of the regulation for land acquisition, we hope to benefit both the JBNERR and the DNER by providing a guideline for simplifying future acquisitions and by assisting the acquisition of valuable land.

## **Chapter 3: Methodology**

The goal of this project was to provide guidelines for future land acquisition proposals that comply with the 2008 law for DNER land acquisition. The expected results of this project were twofold: to complete as much of the acquisition process as possible for land near JBNERR; and to simplify the land acquisition process by clearly outlining the steps necessary to complete the proposal. In the process of completing this project, the group acquired an understanding of Jobos Bay and the benefits land acquisition offer to the bay. Understanding and expanding upon the real estate acquisition regulations and procedures was a vital part of the team's research. The final analysis of the regulations is presented in Chapter 4 and includes guidelines for future land acquisition proposals.

The team worked at the Division of Coasts, Reserves and Refuges located in the DNER office building in San Juan, and also gathered information at Jobos Bay National Estuarine Research Reserve, in Guayama. The project group visited the reserve to document the needs for acquisition of each parcel of land. At both locations, interviews of staff members were conducted, which were vital to the progress of the project. Ms. Mabel Rivera, the director of the Real Estate Division, was especially helpful in expanding our knowledge and understanding of the Real Estate Acquisition law of 2008. Additionally, the team acquired information from the Jobos Bay website, the DNER website, and the DNER Library. Finally, the extensive records provided by Ms. Damaris Delgado gave a glimpse into the management history of the reserve, leading to invaluable background information on the reserve. The understanding gained enabled the team to complete several steps of the Real Estate Acquisition Regulation, and to compile guidelines for all other steps needed to complete future land acquisition proposals.

### **3.1 Real Estate Acquisition Regulation**

The Real Estate Acquisition procedures in the DNER are shaped by the regulation that governs such activities. The “Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales”, the regulation adopted by the DNER on December 5, 2008, is the law consisting of thirteen Articles that regulate the land acquisition process within the DNER. This law presents a broad overview of the process. The first four articles give the law title, the legal base, the purpose of the law, and definitions of terms

to be used in the rest of the articles. Article V specifies the criteria for the acquisition of real estate, while Article VI states that the Real Estate Division will be responsible for ensuring compliance with the provisions of the regulation. The following excerpt is a translation from Section 1 of Article VII, which outlines the procedures for submitting an acquisition proposal to the Real Estate Division.

*Article VII: Procedures for the Acquisition of Real Estate  
Section 1: Acquisition Project*

*The requesting unit is responsible for preparing an Acquisition Project including, among other things, without limitation, the following:*

- a) Description of the related project.*
- b) Benefits and legal justification for the acquisition.*
- c) Name and physical address and mailing address of all parties with an interest in real estate property being acquired.*
- d) A certified copy of the resolution issued by the Planning Board which approves the project for the use and location query, in the case where a certificate is lacking give evidence that an exemption has been granted to the DNER to submit a location query, if applicable.*
- e) A certified copy of the resolution issued by the Planning Board which approves the public transaction query, in the case where a certificate is lacking give evidence that an exemption has been granted to the DNER to present a public transaction query, if applicable.*
- f) A certified copy of the resolution issued by RPA authorizing the acquisition and segregation of real estate property in favor of the DNER.*
- g) Survey plan of the real estate property to be purchased, prepared by a licensed and authorized to practice surveying in Puerto Rico and an active member of the College of Engineers and Surveyors of Puerto Rico. In cases of existing structures, schematic and conceptual drawings may be needed, among others.*
- h) Any other plan that is necessary according to the particular characteristics of the real estate property to be acquired and prepared by licensed professionals authorized, under existing laws.*
- i) Certification of the Division of Finance on the availability of funds to carry out the acquisition when the transaction requires the expenditure of public funds.*
- j) In cases of exchange, the requesting unit must inform the Division of Real Estate, as part of a proposed acquisition that the transaction involves a swap. The requesting unit will provide a clear description of the property to be delivered, including the registration data of the same.*
- k) Three (3) original appraisal report or appraisal of real estate property to be purchased.*
- l) Three (3) originals of the report prepared by the appraiser reviewer in relation to the valuation report or transaction referred to in subsection (j) above.*
- m) Letter or official document from the Secretary authorizing the acquisition.*
- n) Any other document required by the Real Estate Division considering the characteristics of each case (DNER, 2008).*

Section 2 of the Article continues to describe the necessary processes. Once the Applicant submits the materials listed in Section 1, the Real Estate Division must comply with several

requirements, which are explained in Section 2. Section 3 gives more requirements for the appraisal and the appraisal report. The last components, Section 4, 5, and 6 explain the process that the Real Estate Division would follow based on the type of acquisition; purchase, expropriation, or swapping. Article VIII assigns responsibilities within the DNER if the property is changing ownership through assignment (transfer ownership to another agency). Article IX covers the responsibilities of the DNER's Real Estate Division when the property acquisition is a donation. Article X, XI, XII, and XIII are the general provisions and approval clauses, which state how to handle a situation not already mentioned by the law and declare the date that the legislation will take effect.

The general procedure for any real estate acquisition in the DNER, as gathered from the 2008 regulation, follows specific steps. The Applicant, the Division of Coasts, Reserves and Refuges in the case of Jobos Bay, starts the acquisition process, and is charged with complying with Section 1 of Article VII. This provides the Real Estate Division with needed information, and ensures that the support of the DNER's Secretary, the RPA and the Planning Board has already been obtained. Once Section 1 has been completed, the Real Estate Division takes on responsibility for all further actions. The remaining sections are a list of rules for acquisition. The Real Estate Division must complete the rest of the acquisition process according to the remaining Articles. This regulation requires that one person, group or division start the process, but once Section 1 of Article VII is completed, the Real Estate Division of the DNER will carry out the purchase.

In order to understand the regulation, and how to best complete these steps in Section 1, especially those involving the Planning Board and RPA, Ms. Mabel Rivera, the director of the Real Estate Division was interviewed on April 13, 2010. Her explanations and assistance form the basis for the majority of the following explanations for parts **d)**, **e)**, **f)**, **l)**, and **k)**. The procedures required to complete the other sections were obtained by requesting information from many sources such as the Division of Coasts, Reserves and Refuges, interviewing knowledgeable individuals, or by researching these procedures in the library or websites of the DNER or Planning Board. The following sections are explained out of order in places; although many sections logically can be explained in succession, others do not lend themselves to a simple explanation, and it is beneficial to have that section explained alongside other similar sections.

### 3.1.1 Parts a), b), & c)

The first parts, **a)** and **b)**, of the acquisition proposal require a description of the project, a description of the benefits offered by the project, and an explanation of the legal justification for land acquisition. The research completed in order to understand the need for acquiring land for JBNERR was invaluable for the completion of parts **a)** and **b)** of Article VII. The ecosystems and habitats in Jobos Bay are extremely valuable, and deserve protection. The research done on Jobos Bay allowed us to explain this value in part **a)** of the proposal. The lands to be acquired are also detailed as to location, and the benefits they offer the reserve. The addition of these lands can offer many benefits to the reserve, from expanding the visitor experience to preventing development damage to the bay and safeguarding the habitat for many years to come. The requirement to state the legal justification for acquisition can be satisfied by stating which law justifies the acquisition. Because Law 23, the law that created the DNER in 1972, also gives permission for acquisitions, this is the law cited.

For part **c)**, it is necessary to obtain the names, physical address, and mailing address of all parties with an interest in the real estate property being acquired. The Coastal Zone division of the DNER has access to a cadastre for one of the parcels of land to be acquired. A cadastre is a legal registry that shows the ownership information and value of the land for taxation purposes. Ms. Coralys Ortíz, a biologist in the Coastal Zone division assisted the team in obtaining a cadastre for Sucesión Vazquez, but unfortunately could not access a cadastre for either Isla Pajaros or Cayo Ratones. The Sucesión Vazquez cadastre identifies seven property owners for the 90 acre Sucesión Vasquez parcel. Unfortunately, the cadastre does not provide addresses for these owners.

The landowner names for Isla Pajaros were obtained by searching through older documents that related to Jobos Bay. These documents related to Jobos Bay's management were provided by Ms. Damaris Delgado. These documents range from management plan drafts, conference proceedings, to orders for fence installments. Among these documents was a letter from the former owner, Sra. Ines Nadal, who sent a letter in 2004 to the DNER announcing intent to sell the property. The current landowners, Jose Luis Figueroa, Maria de los Angeles Casas, Arnaldo Palmer Lopez and Rosa Elena Figuero were determined by a title study performed by the L.J.N. Title Search Company in 2008.

The landowner of Cayo Ratonos (Matias) was not found in any documents at the DNER, but the owner was determined after the team visited the island and saw a sign declaring the island to be property of Sr. Alvarado and encouraging visitors to call him for tours and activities. Although property owners for Sucesión Vazquez were discovered, the mailing and physical addresses for owners of the other parcels were unknown. This list of names was treated as a starting point, because some of the documents were from many years previous. As shown by Isla Pajaros, the owner listed in older documents is not always accurate, which is why more definite confirmation of ownership is needed.

In an attempt to verify the list, find if there are any remaining landowner names, addresses, and any other useful information pertaining to the legal ownership of the land, the project team contacted the 'Registro de Propiedad', or Land Registry office in Guayama. The Land Registry is a public office charged with holding public records of real estate transactions. As the Land Registry should have records that include names and addresses for the current and former property owners, and sale prices, obtaining this information would be extremely useful in the acquisition process. To request information from the office, the Jobos Bay staff supplied us with a requesting letter which listed the properties and requested the assistance of the registry staff. This was partially to assist the registry staff by giving them a document with the land parcels listed, and had the additional benefit of identifying this research as for the government of Puerto Rico, which eliminated any charges for this request.

The team visited the office in Guayama on the afternoon of Wednesday, April 7<sup>th</sup> 2010, and encountered several obstacles. The first was that the letter supplied by the Jobos Bay staff was not adequate. To process the information requests separately for each parcel of land, the office requires a separate document for each. The original plan for obtaining information from the Land Registry office was to submit the request on Wednesday, and to return on Thursday to pick up the information. The plan was overly optimistic because, as the researcher at the Land Registry explained, at least one to two weeks are required to find all the information for a request. The final obstacle encountered in the Land Registry office was that on Thursday and Friday, the 8<sup>th</sup> and 9<sup>th</sup> of April, the office was closed to repair their computer systems. Guayama is an hour and a half drive away from the office in San Juan, which made it difficult for the team to return to the Land Registry. The JBNERR staff have continued to contact the Land Registry to

obtain the accurate landowner names and addresses, but have not yet been successful. As a result of these obstacles, part c) is incomplete.

### 3.1.2 Parts d), e), & f)

The next sections, **d)**, **e)**, and **f)** all require that certifications be obtained from the Planning Board, or from the Regulations and Permits Administration. Ms. Mabel Rivera provided this information in an interview on April 13, 2010. The certification requested from the Planning Board in part **d)** is only applicable if the landowner currently has projects submitted to the Planning Board. If there are projects submitted to the planning board, the DNER needs to obtain a copy of those resolutions regarding the property before proceeding to the next steps.

Part **e)** requires the Applicant to obtain a certified copy of a Planning Board resolution that approves the “public transaction query”. This is a lengthy document, requesting detailed information. To fill out this form, it is necessary to have performed both the surveys and appraisals, as well as gathered a wide range of information about the lands to be acquired. The additional information needed to fill out this document includes: identify the land owners surrounding the parcels, identify the water bodies in, adjacent to, or near the parcels of land, and identify the types of soil based on Planning Board maps.

The timeline for the completion of some portions of the application are independent of each other. However, this is not true for parts **e)** and **f)**. Before part **e)** can be completed, parts **c)**, **k)**, and **l)** need to have been completed previously. Part **e)** requires all the information from part **c)**, the names and addresses of the owners, as well as the value of the land from the appraisal, which is part **k)**, and the description of the land from the surveys which is part **l)**. Once this portion has been submitted, the DNER must draft and send a letter to the landowners, letting them know that part **e)** has been submitted. The Planning Board will then give the proposal an official receipt and assign the proposal a number, which the landowner can use to look up the proposal and dispute the process if they feel there are problems.

Part **f)** is one of the final parts to be completed. It requires that the Applicant receive a certified copy of the resolution from the Regulations and Permits Administration (RPA) approving the acquisition of the property in favor of the DNER. Final certification by the RPA is given by a form called the Application for Approval of Land Development, and contains important information such as the intended use of the property. It also includes information about

the type of structures to be built if there are any planned for the parcel. To acquire this certification, the DNER must submit to the RPA all surveys, appraisals, and the letters sent to property owners. Additionally, approval from the Division of Finance within the DNER, part **i**), and the approval of the Secretary of the DNER, part **m**), is required before this step can be completed. If the RPA approves the transfer, they provide the certification. The RPA then registers the property in the name of the DNER in deeds for the land.

### **3.1.3 Parts g), h), k), & l)**

Parts **g**), **h**), **k**), and **l**) explain the process which the Applicant must follow for obtaining surveys and appraisals of the land to be purchased. Part **g**) requires a survey to be performed on the properties. Part **g**) states that the survey must be prepared by a licensed professional, authorized to practice surveying in Puerto Rico, and who is an active member of the College of Engineers and Surveyors of Puerto Rico. The next part to be completed, part **h**), is required only when there are existing buildings/structures on the property to be acquired. Unless the makeshift docks are considered structures, part **h**) is not necessary for any of the 3 properties to be purchased.

Parts **k**) and **l**) require that three original documents detailing the appraisal of the property be obtained, in addition to three original reports on the appraisal. Parts **k**) and **l**) are explained more fully in Section 3 of Article VII. The appraiser must be authorized to practice by the Board of Examiners of Assessors of Puerto Rico, and must prepare the report or valuation in accordance with the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions, or the American Institute of Real Estate Appraisers. The appraisal (valuation) must include the fair market value of the real estate, a description of the property, identification of structures, and any other information that would support the appraiser's conclusions. The valuation of the property must then be submitted to an appraisal reviewer for approval in writing, which is the required appraisal report. The report prepared by the appraisal reviewer would indicate reasons why the appraisal is accepted or not accepted, and any differences in value found.

Ms. Rivera, of the Real Estate Division, said that obtaining surveys and appraisals of the land to be purchased is one of the most important parts of the acquisition process, and must be finished before any certifications are given by RPA. During the meeting with Ms. Rivera, she

informed the project team that the Secretary of the DNER had already ordered a survey of Isla Pajaros, but not for Cayo Ratones, or Sucesión Vazquez. If there are no appraisals for the properties, then a work order must be requested through the Real Estate Division. Once surveys for the requested lands are completed, three originals of the land appraisal report, and three originals of the appraisal report are required to be submitted as part of the land acquisition proposal.

#### **3.1.4 Parts i), j), m), & n)**

Parts **i)**, **j)**, **m)** and **n)** are additional components that must be completed before the proposal can be submitted to the Real Estate Division. Part **i)** explains that there must be a certification stating the availability of funds when they are needed to acquire the lands. To acquire this certification, Ms. Delgado must contact the Division of Finance. Once this certification is obtained, the requesting division is free to purchase the land. Part **j)** comes into effect only if there is a land exchange between the DNER and the landowner. In this case, the requesting division in the DNER provides a clear description of the properties to be exchanged. If the acquisition requires the transfer of property from the DNER to another owner, the Division of Real Estate must be notified as to the exact properties involved in the transfer, and given the appropriate information about these properties. An example of such an arrangement is the creation of Jobos Bay explained in the Jobos Bay Management Plan. NOAA's federal-state funds matching requirement in Jobos was satisfied by the transfer of DNER owned islands to Jobos Bay. This was an exchange arrangement, with land exchanging ownership, not money. However, part **j)** is not relevant to the current acquisition project because the parcels of land will be only purchased and no exchange is anticipated.

Part **m)** of Article VII, Section 1 states that the requesting department must receive a letter or official document from the DNER Secretary, authorizing acquisition of the land. In order to receive this letter, there are two steps to be taken. First, a draft letter authorizing the acquisition must be written by the requesting division within the DNER. The drafted letter, which the Secretary signs, must contain the need for acquisition, and identify the benefits the acquisition would give to the agency. For this acquisition project, it was suggested by Ms. Damaris Delgado that the letter be written in both English and Spanish, but this is not a requirement. Additionally, a memo to the Secretary explaining the situation, including the

DNER's needs to acquire the land, and why the Secretary should agree to the proposal has to be written. This memo would essentially 'sell' the project to the Secretary. Once the Secretary is satisfied with the content of the draft letter, he will sign the letter to approve the proposal.

Part **n**) is the last portion listed in the regulation, before the Real Estate Division takes responsibility. It requires that the acquiring department have all necessary documents required for a complete profile of the parcels to be purchased. This requirement is vague, and requires a judgment call on the part of the petitioning party and the Real Estate Division. To complete requirement **n**), it is recommended to have the most recent surveys and latest maps available, to give the Real Estate Division the most accurate and up to date information available.

### **3.2 Summary**

Article VII, Section 1 is the initial step in land acquisition for the DNER. Completing this section provides the Real Estate Division with necessary information to complete the purchase or other form of acquisition. The parts of the acquisition proposal are complicated. As seen in part **c**), even apparently simple tasks like finding the names and addresses of each owner can become increasingly difficult once a number of agencies become involved. The discovery processes that lead to understanding each of these regulations was greatly assisted by an understanding of how the DNER's departments function. The Real Estate Division appears to have the most responsibility for acquiring land, eventually taking over the process once Section 1 of Article VII is complete. While the steps in the acquisition proposal process are listed in a specific order, that order does not dictate the critical path of the process. Understanding of the acquisition process was very much an ambiguous process, with even seemingly simple tasks uncovering many more requirements. The explanations of these requirements and recommendations for future proposals are presented in Chapter 4.

## Chapter 4: Results

This project had two separate goals. The first was to complete as many steps of the land acquisition proposal for land parcels to be included in Jobos Bay as possible. After thorough research into the required procedures for DNER land acquisition, this project endeavored to complete the land acquisition proposal for Jobos Bay. In addition to completing as many steps as possible of parts **a)** through **n)** of Article VII, Section 1, this project's other goal was to develop a detailed set of guidelines for future land acquisitions, with recommendations on how to achieve each step. The recommendations were formulated with the assistance of many people in the DNER, the staff at Jobos Bay, and the staff in the Land Registry Office. This chapter explains these recommendations and identifies a suggested order of completion for the acquisition process.

### 4.1 Current Progress of Land Acquisition Proposal

Table 3 indicates the current progress of the Jobos Bay acquisition process. Information highlighted in blue signifies steps completed by our team, green signifies steps started by our team, and red signifies steps not started by our team. The red steps have not been started either because the team is not currently able to start the step, or because of time constraints. This chart also illustrates the delaying factors in completing each step, the party responsible for completing those steps, and identifies an agency that must grant a certification for the project to continue.

Step	Status	Items Delaying Step	Responsibility	Certifying Agency
a)	●	N/A	Applicant	N/A
b)	●	N/A	Applicant	N/A
c)	▲	Need Information from Land Registry	Applicant	N/A
d)	■	c), Complete Planning Board's requirements	Applicant	Planning Board
e)	■	c), g), h), k), l), Complete Planning Board's requirements	Applicant	Planning Board
f)	■	c), g), h), k), l)	Applicant	RPA
g)	■	c)	Surveyor	N/A
h)	■	c)	Engineer	N/A
i)	■	g), h), k), l)	Applicant	Division of Finance
j)	●	N/A	Applicant	N/A
k)	■	c)	Appraiser	N/A
l)	■	c)	Appraiser	N/A
m)	●	N/A	Applicant	N/A
n)	▲	N/A	Applicant	N/A

Table 3: Chart for Jobs Bay Acquisition Proposal

Legend

- Completed
- ▲ Started
- Not Started

## 4.2 Completed and Started Parts

The team completed parts **a)**, **b)**, and **m)**, and made reasonable progress on part **c)**, but did not finish collecting all the requested information. Part **a)** requests a description of the acquisition project. This part was completed first, with the necessary information becoming available as the reserve's unique features and conservation needs were researched. Part **a)** is provided in Appendix B.

Part **b)** requires an explanation of the benefits and legal justification for the acquisition. The benefits of land acquisition for the reserve were discovered by researching the area, reading past management plans and site profiles, and by visiting the reserve and learning about the properties from the scientists and volunteers working there. The requirement that asks for the legal justification for acquisition refers to the fact that actions taken by the DNER, including land acquisition, are justified by the same law that created the DNER in 1972. This law is titled "Ley Núm. 23 de 20 de junio de 1972; Ley Orgánica del Departamento de Recursos Naturales y Ambientales", which translates to "Organic Law of the Department of the Environment and Natural Resources" and can be found in Appendix R. Parts **a)** and **b)** are provided in Appendix B.

Part **m)** requires a letter or official document from the Secretary of the DNER, authorizing the acquisition project. This letter and similar authorization letters for projects in the DNER usually follow a set procedure. The division that needs the letter writes both a memo explaining why the project should be approved and a draft letter for the Secretary to sign. This draft letter is written with an overview of the project, and then indicates support from the Secretary of the DNER. Ms. Delgado suggested that our draft letter be written in both English and Spanish. The project team's version of both draft letters is available in Appendix C.

Part **j)** requires the applicant to notify the DNER if the land acquisition project requires there to be an exchange of land the DNER currently owns. Because this project is not requesting any exchange, this portion did not need to be completed. Consequently, this step is marked completed in Table 3.

The final requirement, part **n)**, is a catch-all clause, requiring that the applicant provide any other document necessary for the Real Estate Division to consider the characteristics of each case. For this acquisition proposal, the project team was able to provide a map of the areas to be acquired, and photographic evidence of the garbage and damage to the mangroves and beaches

on the two islands. The map and photographs can be found in Appendix B. It is possible that for future acquisition proposals, more information and documentation would be required, but that is up to the discretion of the Real Estate Division.

Reasonable progress was achieved for part c), which is the requirement that requests the names, physical addresses, and the mailing address for all owners of the property to be acquired. Although this part was not fully completed, attempts to complete part c) enabled our team to learn much more about the potential sources of this information. Property owners for each of the properties were discovered from several sources. The cadastral data, provided by Coralys Ortíz, listed all of the owners of Sucesión Vazquez. The cadastre is a public register holding the ownership information and value of the land, for taxation purposes. Ms. Delgado provided the team access to documents relating to Jobos Bay's management, which ranged from orders for fence installations to conference proceedings, from the first years of the reserve's existence up to recent years. Among these documents was a letter from the owner of Isla Pajaros informing the DNER of intent to sell. However, this letter was from 2004, so the team was not absolutely confident that she was still the owner. Later, during the course of researching parts d), e), f), and i), Ms. Mabel Rivera provided the team with a title study on Isla Pajaros, which listed Pajaros as having different owners. The owners for Cayo Ratones (Matías) were more difficult to determine through the documents available. In order to find more definite information, as well as find addresses for each owner, the team consulted the Land Registry office, in Guayama. The office in Guayama was consulted because the Guayama office handles land registrations from Guayama and the nearby town of Salinas. JBNERR is in both Salinas and Guayama, but the properties in question are all in Salinas. In addition to being one and a half hours drive away, the Land Registry required about a week in order to find and compile the requested information. This in combination with the other difficulties resulted in part c) remaining partially complete. Part c) can be found in Appendix B. By using the Land Registry office as a source for this information, the team was able to discover many things that will assist future acquisition projects, as well as gain insight into the time required for this part of the regulation.

### 4.3 Delayed Parts

The portions of the acquisition proposal that were not started are parts **d)**, **e)**, **f)**, **g)**, **h)**, **i)**, **k)**, and **l)**. Many of the remaining parts were delayed as a result of not having parts **g)**, **h)**, **k)**, and **l)** complete. Parts **g)** and **h)** request the surveys and site plans (applicable if buildings are present on the property). Parts **k)** and **l)** require the appraisal and appraisal report for each property. These parts delay the completion of other parts, specifically parts **e)**, and **f)**. Both **e)** and **f)** are certifications from other agencies, accepting the proposal for land acquisition. These agencies are the Planning Board, and the Regulations and Permits Administration (RPA). Both of these agencies have multiple requirements that must be satisfied before the certifications are given, and among these requirements are the surveys and appraisals for each property. Although these parts were delayed, research into the process allowed the team to develop a strong understanding of how they work, and how they can be best completed.

#### 4.3.1 Surveys, Appraisals, and Building Plans

The surveys (part **g)**, appraisals (part **k)**, appraisal reports (part **l)**, and any other necessary plans (part **h)** all add a lot of time delay into the process. In the DNER, surveys and appraisals have to be ordered through the Real Estate Department. The applicant for land acquisition would request that the Real Estate Department order the surveys and appraisals for each property. Because the DNER is a government agency, a bid process is needed which extends the time required to complete the surveys and appraisals. Ms. Delgado has had experience with ordering surveys and appraisals, and said that an estimate of two to four months waiting for the contract to be drawn up, bid on, and signed would not be unreasonable. There would also be a wait of around two weeks before the surveys and appraisals would be finished and submitted. For this acquisition project, the surveys and appraisals have not yet been requested, so the portions of the project dependent on the information from the surveys and appraisals were not started either.

The surveys must be completed by qualified, licensed professionals that operate in compliance with the College of Engineers and Surveyors of Puerto Rico. The surveys must be completed for each parcel of land; this would apply to each section that is owned by separate

owners. So, depending on the number of parcels per property, the number of surveys performed would vary. For Isla Pajaros, there are two parcels of land, each owned by two people. Thus, two surveys should be performed for Isla Pajaros. The cadastre for Sucesión Vazquez indicates that there are seven parcels of land in Sucesión Vazquez, so seven surveys must be performed for Sucesión Vazquez, and according to the information the team was able to collect for Cayo Ratonos, there is only one owner, and one parcel of land, which would only need one survey. The result is 10 total surveys for all the acquisition priorities.

The appraisals and appraisal reports to be performed must follow specific guidelines, which are laid out in Article VII, Section 3. These guidelines consist of parts **a)** through **k)**, which set very exact requirements for all appraisals and appraisal reports. Parts **a)** through **d)** specify the licenses that the appraiser must have, and the standards of appraising that should be followed. Appraisals must be prepared according to any of the following standards: “Uniform Standards of Professional Appraisal Practice”, “Uniform Appraisal Standards for Federal Land Acquisitions” or any guides approved by the American Institute of Real Estate Appraisers. All contracts for appraisals or appraisal reports must include a clause requiring that the previously mentioned standards are followed. Part **e)** is a list of all information that must, at minimum, be included in the appraisal. Parts **f)** through **k)** explain the Appraisal review process that must be followed, and processes that should occur if the reviewer reaches a different conclusion as to the value of the land. Similarly to parts **g)** and **h)** of Article VII, Section 1, the appraisals and appraisal reports must be prepared for each parcel of land. This would result in 10 appraisals, and 10 appraisal reports.

Part **h)** is more uncertain, because it is unclear if there is a need for site plans to be performed. The regulation asked for “Any other plan that is necessary according to the particular characteristics of the real estate property to be acquired and prepared by licensed professionals authorized, under existing laws” to satisfy part **h)**. Because this portion of the law does not specify the situation that would necessitate other plans, and there are no buildings or other structures present on the lands to be acquired presently, no plans to satisfy part **h)** are planned for the current acquisition proposal.

#### 4.3.2 Part e): Planning Board Certification

Part e) of the acquisition proposal was not completed due to time restraints, and because the surveys and appraisals had not been conducted. The Real Estate Division had previously informed the project team that the certifications from the Planning Board and the RPA both required completed and recent surveys and appraisals for each property, which had not been requested yet. Despite not being started, the team researched the requirements of this part. Ms. Mabel Rivera gave the team several documents from the Planning Board that explain the requirements for receiving the certifications for parts **d)** and **e)**. The requirements for receiving the Certification from the Planning Board include filling out forms JP-31A, (Anejo) I, form JP-CED, and requests many additional letters of approval, documents verifying ownership, aerial photographs, and even a CD with a geographic representation of the project drawn up. The Planning Board released several documents that assist applicants in understanding the requirements, since they are rather complex. One such document, titled “Instrucciones para la preparación del Expediente en papel: Consultas de Ubicación (Públicas y Privadas)” lists the materials that an applicant must submit in order to receive a Certification from the Planning Board and can be found in Appendix F. This guide is for all Consultas de Ubicación, which translates to ‘Location Query’. This is a general guide that applies to many projects submitted to the Planning Board. Another document, “Transacciones de Terrenos,” explains that in cases where proposal submissions to the Planning Board are not covered by the general project proposal regulations, the applicant can follow the “Transacciones de Terrenos” document to submit a project to the Planning Board for approval. This document can be found in Appendix D.

The following is an abbreviated translation of the document “Instrucciones para la preparación del Expediente en papel: Consultas de Ubicación (Publicas y Privadas)”, which applies to general project proposals.

*In a legal size binder, include the following documents pursuant to this order:*

1. *JP-31A Original Form*
2. *Original Explanatory Memorial*
3. *Evidence of Ownership*
4. *Original version of the Owner Authorization Letter*
5. *Resolutions adopted by the Board or by ARPE*
6. *Copies of the agreements and plans approved by ARPE*

7. *Letter from the Department of Housing describing social implications if applicable*
8. *Endorsement Letter from the Department of Health*
9. *Letter from the Environmental Quality Board indicating compliance with the Environmental Public Policy Act*
10. *Letter of evidence from the agency who owns the land, indicating that access is available.*
11. *Evidence of notification to the landowner if lands are private*
12. *JP-CED Form signed by the proposer and/or representative*
13. *Any other additional information*

*In a legal size manila folder, include the following documents pursuant to this order:*

1. *Topographic Quadrangle*
2. *Zoning Map*
3. *Cadastral map from the CRIM*
4. *Map of the estate or property to be developed*
5. *Graphic representation of the Proposal, duly signed*
6. *One (1) Color Aerial Photo 1:10,000*
7. *Environmental Form and/or Environmental Assessment*
8. *Economic Feasibility Study*
9. *Maps of Measurement (Surveys)*
10. *CD with project information*

(Planning Board, 2008)

The requirements in the “Transacciones de Terrenos” document match this list in many ways, asking for the JP-31A form, an explanatory memo, evidence of ownership and many other documents that were mentioned in the previous list. The “Transacciones de Terrenos” document differs in that it not only lists the requirements, but also details exactly what needs to be done for each requirement. For the explanatory memo, a description of the proposed work, cost, source of funds, purpose, justification, service offered, size of the land involved, land owner and address, current use of the land, and many other details must be included. The document continues to describe step by step what is necessary for each requirement, which makes this “Transacciones de Terrenos” document very valuable for an acquisition proposal, even if the general proposal regulations apply and are used. Although similar for several requirements, the “Transacciones de Terrenos” document’s requirements are also different at points. An abbreviated translation of the document follows:

*Submit the following documents in a portfolio, in addition to a CD created using the Publisher Program provided by the Planning Board:*

*JP-31A form*

*Explanatory Memorandum*

*Evidence of Ownership, or*

*Evidence that Owning Agency has granted permission for access to property*

*Evidence that the Landowner has been notified (If Private)*

*Authorization Letter from the Director of the Agency (if land owned by public agency)*

*Cadastral map of the current CRIM indicating the exact location.*

*1:20,000 scale topographic quadrangles illustrating the exact location of the land*

*Map of Measurements (Survey)*

*Polygon – see instructions for preparing Polygon*

*1:10,000 scale aerial photo to locate the property*

*Lambert coordinates, Datum, NAD83, revision 1997*

*JP-CED form*

*(Planning Board, 2008)*

All explanations of the requirements were removed, in order to identify concisely the Planning Board's requirements that to be addressed. It is evident from all of these documents that this portion of the acquisition project may be time consuming.

#### **4.3.3 Part d)**

Part **d)** asks for a Certification from the Planning Board of Puerto Rico, to verify whether or not a project has been submitted to the Planning Board by the current landowner. To assist the team's understanding of this part, The Real Estate Division gave a document from the Planning Board entitled "Requisitos para las Solicitudes de Reapertura y Enmiendas a Consultas de Ubicación", which translates to "Requirements for Requests to Reopen or make Amendments to Location Inquiries". The project submission is a 'Consulta de Ubicación' for the Planning Board, and the process of finding out if the current owner has anything submitted is the 'request to reopen or amend'. This latter document is a guideline for submitting the request, and a list of what documents are necessary. The first section of the requirement is an explanatory memorandum that includes all general aspects of the project, including the project's plan for the management of the land and water usages. The second piece of information required is evidence of ownership of the property, which must be notarized or certified to be accurate. Furthermore,

there must be a letter of authorization stating intent to sell from the original landowner. In addition, a graphical representation of the land area is requested, with planned roads, and/or house lots that may be planned for the area. Additionally, the surveyors and draftsmen must provide their license numbers so their credentials can be confirmed. The final requirement is to submit all these documents in PDF format on a compact disc.

#### **4.3.4 Parts i), and f)**

Part **i)** requires a Certification from the Division of Finance in the DNER. This Certification is obtained when the applicant submits a request to the Division of Finance to verify the availability of funds needed for the acquisition. This part was not completed simply because this should be among the final steps in the process. The final part, **f)**, is more involved and time consuming. This final part requests that the applicant obtain a Resolution from the RPA, which indicates approval for the acquisition proposal and registers the property in the DNER's name. Ms. Rivera gave the requirements for part **f)** to the team in our meeting on April 13<sup>th</sup>. In order to receive the Resolution from the RPA, nearly every other completed part, plus many other requirements, must be submitted to the RPA. These requirements include submitting a copy of the letters informing each property owner of the DNER's acquisition project, copies of the surveys and appraisals, and cadastral information. Once part **f)** is completed, this Resolution registers the land in the DNER's name and approves the acquisition project.

#### **4.4 Recommendations for Future Land Acquisitions**

The first step in creating recommendations for future land acquisition projects was to analyze all parts of Article VII, Section 1. To explain the process of completing parts **a)** through **n)** of Article VII, Section 1, the project team researched each part and developed an understanding of the relationships between each part. By talking with several people in the DNER, reading regulations, and in some cases, trial and error, a working understanding of the regulation was reached. This understanding is represented by a Critical Path Method (CPM) chart. CPM charts are designed to show the intended order of completion of a project, and which path is the critical path. The critical path is that which controls the final outcome of a project. For this project, certain parts must be completed before others, but these relationships were not

immediately clear from the organization of the law or from the details in the regulation. Therefore a CPM was created detailing these dependencies in Figure 16 by the arrows leading to other sections. When an arrow points from one part to another, this indicates that the part must be complete before the following one is started. Two paths that emerged from our research are depicted in Figure 16. These two paths can progress independently until the final part. The critical path, or path that has the most effect on the progress of the process, is the flow on the right, starting at **c)**, continuing down through **g), h), k), l)**, and going down to **f)**. This path is delineated by its red arrows. Any delays among the parts in this path will slow the progress of the entire project. The left path, from **a)** and **b)** to **f)** is the path with the most completed parts.

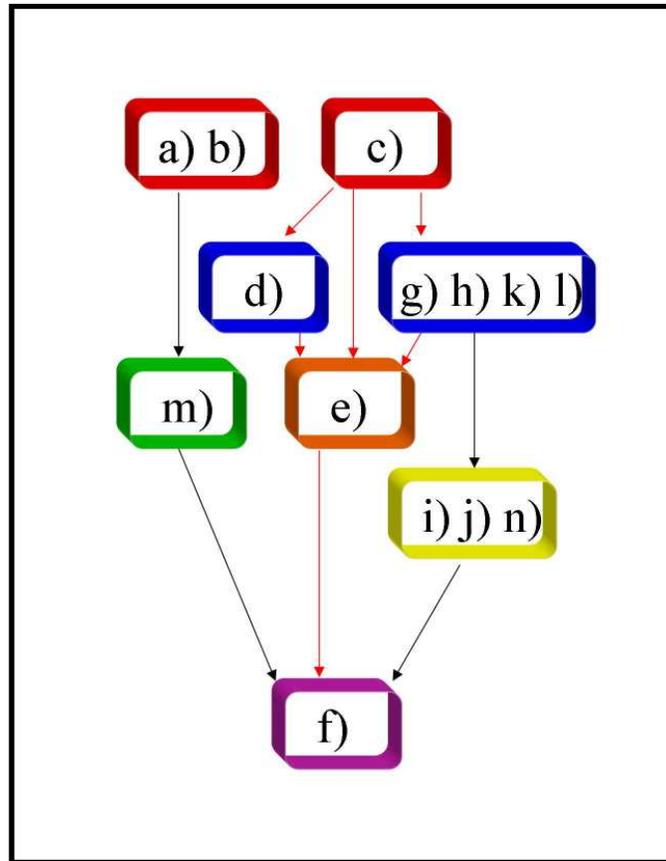


Figure 16: Critical Path Method Chart (CPM)

#### 4.4.1 Parts a), b), and c)

The following recommendations for future land acquisition proposals in the DNER have been compiled with a mind towards timely completion of the land acquisition process. These sections will follow the optimal order for completion, as outlined by the CPM Chart. Parts **a)**, **b)**, and **c)** are the recommended place to start the acquisition process. These are relatively simple to complete. Part **a)** asks for a description of the project. This should include a description of the acquisition project, and of the area to be acquired. The applicant should be able to describe exactly the location of the land, the plants and animals that live on the property, and any other relevant details. The next part requests an explanation of the benefits offered by acquisition. An explanation of the benefits should mention the value contained within the proposed property. This value could be ecological, if the land provides several different habitats or if it protects ecologically important areas. Other ways the land could offer benefits include assisting conservation or restoration efforts. The same Part **b)** also requires a mention of the legal justification for land acquisition. The legal justification for all land acquisition proposals in the DNER can be found in Ley 23, of 1972, which created the DNER.

Part **c)** requests a list of owners' names, physical addresses, and mailing address, and is the most critical of these beginning parts because it affects the ability of the applicant to complete several other parts. Part **c)** must be completed before parts **d)**, **e)**, **f)**, **g)**, **h)**, **k)**, and **l)**. The recommended procedure for completion of part **c)** is to request the information about land-owners from the Land Registry Office. The Land Registry Office, while it can provide extremely valuable information, has many procedural requirements that can hold up the acquisition process if the applicant is not prepared. There are multiple Land Registry Offices in municipalities throughout Puerto Rico, which can be responsible for several nearby municipalities. The Puerto Rico Department of Justice website supplies a list of the Land Registry Offices, their locations, and the municipalities they serve. To request information from the Land Registry, the applicant should have a letter requesting the assistance of the office. This letter would identify the land to be acquired, the information needed from the office, and also should identify the applicant as working for the Puerto Rican Government. This would allow the applicant to avoid charges. Each letter can only request information for once parcel of land; if more than one parcel of land is part of the proposal, as was for this team's acquisition project, there need to be several letters

submitted. The division responsible for the acquisition proposal should also be aware of the fact that the Land Registry Office needs one to two weeks to put together the requested information. The Land Registry Office is able to provide not just names, physical addresses and mailing addresses, but also the locations of neighboring properties, a description of the land, and zoning information. All of this additional information can be valuable for many subsequent parts.

#### 4.4.2 Parts **d)**, **g)**, **h)**, **k)**, and **l)**

Once parts **a)**, **b)**, and **c)** are complete, several other parts can be started. Parts **d)**, **g)**, **h)**, **k)**, and **l)** are all placed in the second level of the flow chart because they require ownership information, and must follow after part **c)**, and because their completion allows many other parts to be started. The survey, appraisal, appraisal report, and building plan should be requested as soon as possible because they can take a lot of time to complete. These surveys would be performed for a government agency, so there are many additional steps. In the DNER, the normal procedure for ordering surveys, appraisals, and building plans would be through the Real Estate Division. The division would draw up contracts for each plan needed, and then the contracts would go through a bidding process. Ms. Delgado's experience with surveys and other plans lead her to believe that the contracting procedures can take two to four months. The estimated remaining time for the surveys and other plans to be submitted is two weeks after the date that the contracts are finalized. The contracts for parts **g)**, **h)**, **k)**, and **l)** must be carefully drawn up, to make sure that the surveys, appraisals, appraisal reports, and building plans comply with the requirements in the "Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales". Section 3 of Article VII of the law relates specifically to the appraisal requirements, and should carefully be referenced when contracting for appraisals, to make certain that the appraisals will be sufficient for the proposal's acceptance.

It is also recommended that part **d)** be started at around the same time as the surveys and other plans are contracted. Part **d)** does not require surveys or other plans to be completed before the part can be started. Part **d)** asks that the applicant find out if the owners of the property have development proposals currently submitted to the Planning Board, and if they do, the applicant must obtain a copy of the Certification that resulted from the project proposal (the decision of the

Planning Board). This project team recommends that future acquisition proposals follow the “Requisitos para las Solicitudes de Reaperturas y Enmiendas a Consultas de Ubicación”, which translates to “Requirements for Requests to Reopen or make Amendments to Location Inquiries”. This document neatly explains the documents needed to be completed in order to obtain this Certification.

#### 4.4.3 Parts e), f), i), j), m), & n)

The following parts, **e)**, **i)**, **j)**, **m)**, and **n)** follow in the flow chart, and are the next recommended to be completed. In order to complete parts **e)** and **f)** which request Certifications from the Planning Board and the RPA, all surveys, appraisals, and other plans must be completed. Part **e)** should be started as soon as the surveys appraisals and plans are complete. Part **e)** is the second of the two Certifications required from the Planning Board. This Certification requested for part **e)** is essentially the approval of the Planning Board for the acquisition project. Several forms must be completed and submitted to the Planning Board. For future acquisition proposals, it is recommended to follow one of the two documents released by the Planning Board that explain the requirements. These two documents, “Instrucciones para la preparación del Expediente en papel: Consultas de Ubicación (Públicas y Privadas)” and “Transacciones de Terrenos,” have similar requirements. The first document applies to general proposals, and the second can be used if the general requirements do not apply to the proposal. The general procedure document does not explain every step, only lists the steps. If the latter document is followed, which applies to proposals that do not fall under the general procedures, the explanations for each step can be very helpful. Figure 17 outlines what is required by both documents, graphically showing the two ways part **e)** can be completed. As shown, both documents have several overlapping requirements, which is why an applicant should use the explanations that are included in the “Transacciones de Terrenos” document even if working to complete the requirements in the “Instrucciones para la preparación del Expediente en papel: Consultas de Ubicación (Públicas y Privadas)” document.

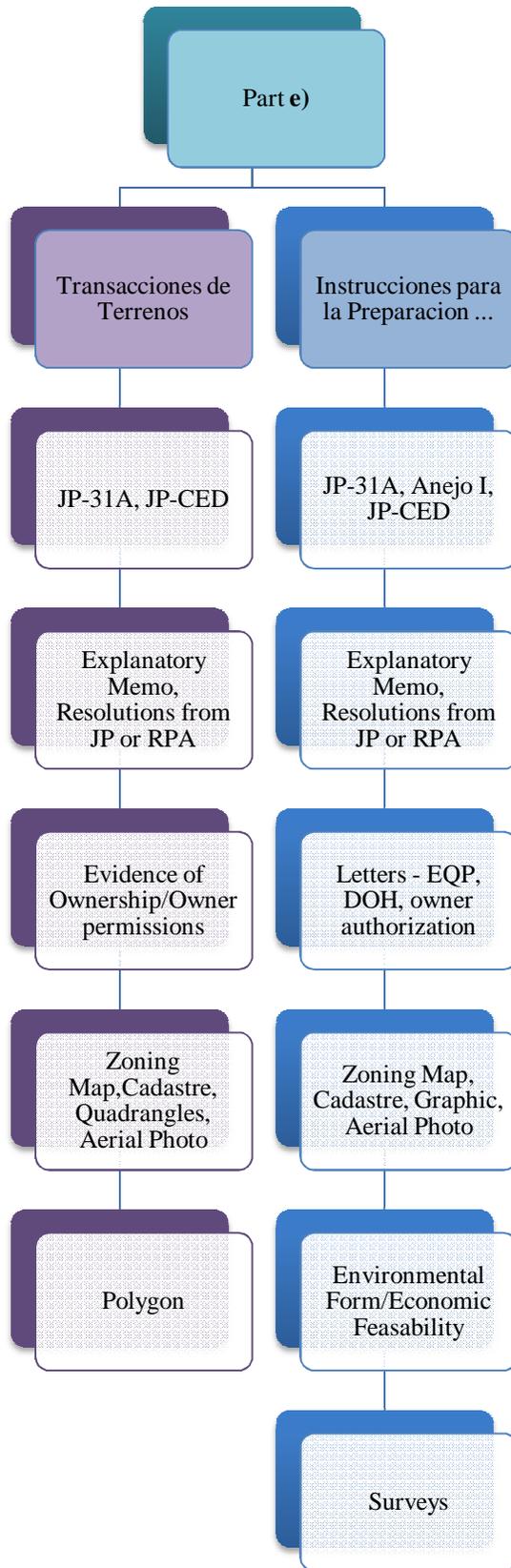


Figure 17: Part e): Planning Board Requirements for Certification

Both processes require the forms JP-31A, Anejo I, as well as other forms. JP-31A is a form that requests general information about the project, including sources of funding, and the type of regulating provisions that will be in use. JP-31A is included in Appendix N and O. JP-31A is a general document, not specific to land acquisition projects from the DNER, and so has check boxes for the type of applicant ranging from residential to industrial projects. Under each type of project is included a number of subcategories. If the project is proposing a commercial retail store, a section underneath that title asks for the square meters of retail area, storage area, and even asks the allotted parking spaces. Because this form continues with such detailed questions throughout the document, it would take time and assistance from staff in the Planning Board to understand the parts of this document that are applicable and required to complete a land acquisition proposal. Anejo I is another form that is also required in order to obtain the Certification from the Planning Board. This form asks the source for funding the acquisition and information about the size of the building (if there are any on the property being purchased), and capacity of land being bought. In order to complete the Anejo I form, two additional documents must be included. The two documents that need to be included with the form are the Certificación de la Radicación de la Consulta de Transacción y/o Ubicación, and the Certificación de la Intención de Adquisición de los Terrenos, which translate to ‘Certification of Filing for Transaction Query’ and ‘Certification of Intent for Land Acquisition’ respectively. As evident from all of these required documents, Part e) will take significant time to complete, and should be started immediately after the surveys are complete.

Part i) is a Certification from the Division of Finance in the DNER, verifying the availability of funds to carry out the acquisition process. This Certification would be obtained once the information is requested from the Division of Finance. This part is one of the last to be completed in the Figure 16 flow chart. This is because part i) requires little time, and has no sub-requirements. Part j) requires that the applicant inform the Real Estate Division if the acquisition necessitates a swap. This part also requires that the registration data for the land to be swapped be provided to the Real Estate Division. If the acquisition requires a swap, the land that would be traded from the DNER should be included in the requests for part c). This would provide the registration data, as well as the cadastral information for the property, which would allow the Real Estate Division to identify the parcels to be traded. Part m) requires that the applicant receive a letter of approval from the Secretary of the DNER. In order to receive this letter, it is

recommended that the applicant write a memo and a draft letter for the Secretary to sign if he approves the acquisition. Parts **m)**, **j)**, and **i)** must be completed prior to part **f)**.

As shown in Figure 16, Part **f)** should be the last portion of the acquisition proposal completed by the applicant. Part **f)** of the regulation asks that the applicant obtain a Resolution from the RPA, authorizing the acquisition proposal. This resolution would register the property in the DNER's name. In order to receive this resolution, the applicant must submit a lot of information to the RPA. The approval from the DNER Secretary, the surveys appraisals and plans, the cadastral information, as well as a letter informing the owner of the acquisition proposal must all be submitted to the RPA. After every part, including part **f)** is finished, the requested documents can be submitted to the Real Estate Division. The Real Estate Division then has the responsibility to complete the acquisition, or to inform the applicant of reasons for denial, within 15 days.

#### 4.5 Summary

The team's accomplishments include completing four parts of the Land Acquisition Proposal for Jobos Bay, and starting an additional two parts. Completing these parts of the acquisition involved in depth research in the DNER, as well as research and interviews conducted at Jobos Bay. Furthermore, recommendations for future Land Acquisition Proposals, including explanations for completing each part were compiled. The CPM in Figure 16 graphically shows the recommended order for completion for each part. These recommendations were a result of the team's experiences completing the Land Acquisition Proposal, as well as a result of research into the processes.

## Chapter 5: Conclusions

In recent years, the care of the environment and the world's natural resources has become increasingly important. As a result of global climate change, natural resource depletion, and natural disasters, protecting the remaining resources available has become ever more important. This is one of the reasons that the mission of the DNER in Puerto Rico is so valuable. The DNER's mission is to:

“Proteger, conservar y administrar los recursos naturales y ambientales del país de forma balanceada para garantizar a las próximas generaciones su disfrute y estimular una mejor calidad de vida.”

The English translation of this mission is:

“Protect, conserve, and administer to the natural resources and the environment of the country in a balanced way to guarantee the enjoyment of these to the next generation and to stimulate a better quality of life.”

Protecting the natural reserves of Puerto Rico preserves many unique natural areas that might otherwise be threatened and struggling. Jobos Bay demonstrates the value of the work done by the DNER. The importance of Jobos Bay stems from both the incentives for communities to build around estuaries, as well as the services performed by the coral reefs and mangrove forests in protecting the area from storms and waves. The environmental impact of development around or near estuaries can threaten coastal habitats. Development of the islands that ring Jobos Bay can have negative impacts on the water quality, and can damage the coral reefs and mangrove forests.

To protect Jobos Bay, and to prevent commercial development of the areas around the Bay, the acquisition of Sucesión Vazquez, Isla Pajaros, and Cayo Ratones (Matias) is currently a priority for the reserve managers. An obstacle to these acquisitions is that the Regulation for Land Acquisition in the DNER was passed recently, and the acquisition procedures are not yet well known by the agency.

This project worked to complete parts of the proposal for land acquisition in Jobos Bay, and to create guidelines and recommendations for future land acquisition proposals in the DNER. Researching the DNER procedures, interviewing experts in the DNER and from Jobos Bay, and visiting and photographing the Jobos Bay acquisition priorities allowed the project team to complete several parts of the acquisition proposal. Developing an understanding of the bay and

the environmental importance of the area was critical to completing parts a), b), and m). The damage evident on the islands adds credence to the acquisition proposal, and urgency to the acquisition project. Completion of these parts will give the Jobos Bay Acquisition Proposal a strong starting point, with extensive background information available. Additionally, the team compiled recommendations for future land acquisition proposals being completed by applicants within the DNER. The recommendations were created through research of the processes and requirements necessary to complete all the parts of the proposal. The experiences from this team's efforts to complete the proposal also allowed the recommendations to be expanded with additional explanations. The intent of these guidelines is to assist future land acquisition proposals, allow them to progress more smoothly and assist the DNER in their vision of protecting the valuable natural resources of Puerto Rico.

## 5.1 Future Work

This project shows many opportunities for future work with the DNER, in areas related to this acquisition regulation, as well as in other areas that can assist the DNER's management of the reserve.

As mentioned by Ms. Delgado, one project that would improve reserve management would be an exploration of exact boundaries, and an analysis of all conflicting boundary information. The boundaries for some reserves are unclear, which can cause land use conflicts, and make it difficult for rangers to protect the reserve. Additionally, land ownership disputes can result from unclear boundaries. Exploring the situations that cause unclear boundaries, and determining the exact legal boundary for a reserve would improve the DNER's ability to manage the reserves. The boundary determination project, however, if not narrowed to a specific reserve, could be difficult because of the huge quantity of information that would need to be reconciled. Working with a single reserve would greatly decrease the difficulty. Clarifying boundaries of a single reserve would allow the project team to work with reserve managers to clarify boundaries, as well as decrease the amount of information that the team would be responsible for analyzing. For a boundary clarification project, working closely with the reserve managers, the DNER Real Estate Division, and staff in the Land Registry Office would allow the team the best access to the information needed.

There are several possible projects to continue the work started by this IQP team. These projects could include an expansion of the recommendations created by this team, by researching several parts whose requirements are not completely clear. The three parts that relate to the Planning Board and the RPA regulations, parts **d)**, **e)**, and **f)**, can benefit from more research and explanation. The guidelines from the Planning Board, while extremely useful and descriptive, leave several requirements unexplained. A project to explain the remainder of the acquisition proposal process would continue the work started by this team.

Another project continuing the work in acquisition would be the completion of a full acquisition proposal. While finishing the land acquisition process, it is understood that there will be several unexpected obstacles. These obstacles may be in the form of unknown requirements, or procedural delays within the different organizations involved in the process. As shown by the graph of requirements to complete part **e)**, the applicant must work with many organizations, whose regulations and procedures are yet unknown. For future projects to expand the recommendations for land acquisition proposals, working closely with the Real Estate Division would allow the greatest access to useful information, documents and knowledge from the department most experienced with land acquisition.

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## **Appendix A: Library of Acronyms**

CZMA - Coastal Zone Management Act

CZMP - Coastal Zone Management Program

DNER - Department of Natural and Environmental Resources

DRNA – Departamento de Recursos Naturales y Ambientales

JBNERR - Jobos Bay National Estuarine Research Reserve

NEC - Northeast Ecological Corridor

NERR - National Estuarine Research Reserve

NOAA - National Oceanic and Atmospheric Administration

OCRM -Office of Ocean and Coastal Resource Program

PREPA - Puerto Rico Environmental Policy Act

RPA - Regulations and Permits Administration

SWMP - System Wide Monitoring Plan

USFWS - United States Fish and Wildlife Service

## **Appendix B: Completed and Started Parts**

### **Parts a) & b): Description of Project and Legal Justification**

Jobos Bay National Estuarine Research Reserve (JBNERR) is located on the southern coast of Puerto Rico, east of Ponce. The reserve is located in both the Salinas and Guayama municipalities, and encompasses 2,800 acres of land. JBNERR protects many unique natural elements, including mangrove forests, evergreen woodlands, mud flats, salt flats, sea grass beds and coral reefs. Additionally, many threatened and endangered species live in the reserve. Those species include birds, fish, and mammals who live in the reserve, or who may use the reserve for only part of the year. These creatures are able to reside in the reserve because of the varied habitats available. The mangrove roots or coral reefs can be used as nursing grounds, leaving the bay area for mature fish. Both mangrove forests and coral reefs are protected ecosystems and extremely valuable to Puerto Rico in their own way.

The boarding town of Aguirre is designated as a Historic District because of the remarkable history of the area. The area has been used as a Taínos settlement, farmland, and a sugar production town. Aguirre was the first “company town” in Puerto Rico, meaning a town built by the sugar refining company for its employees. Then in 1981, the Jobos Bay reserve was designated as a National Estuarine Research Reserve (NERR), through a partnership with the National Oceanic and Atmospheric Administration (NOAA). This reserve was placed on the old Aguirre Sugar Mill, thus adding to Aguirre’s already impressive history.

As a research reserve, JBNERR conducts a System-wide Monitoring Program (SWMP), as well as offers competitive grants for masters and doctorate students to conduct research focused on coastal management. The monitoring program conducts testing throughout the reserve, cataloging information about water quality changes, such as salinity and temperature, which reflects upon the health of the environment. The grants are also an important part of the research done at Jobos Bay. Through offering these grants, the reserve receives valuable information from the research the students perform, and the students can gain practical research experience. Based on information that comes from the grant research and from the monitoring program, the reserve managers have up to date knowledge about the status of the ecosystem, and can make the best decisions to protect the area.

In order to improve their ability to protect the area, the DRNA has selected three areas around the reserve as priorities for acquisition. These priorities include the land parcel known as Sucesión Vazquez, which contains mangrove forests and salt flats, as well as Cayo Ratones and Isla Pajaros, just outside of the bay. The expansion to include the parcel behind the visitor's center in Aguirre will allow better access to the bay, and will provide visitors a more diverse educational and recreational experience. The islands both support mangrove growth, and are fringed by coral reefs. By expanding the boundaries of the reserve, the JBNERR will be able to protect the salt flats, mangroves, lagoons, and other wetlands of the areas. These areas are habitats for a large number of species, including the endangered Brown Pelican and West Indian Manatee, and by gaining control over these areas, the reserve managers will be better able to ensure that these species have a home.

The varied ecosystems that can be found in the islands, the bay, and in the land around the bay area offer incredible benefits to the JBNERR. The ecological importance of the reserve area stems from the variety of natural ecosystems. The mangrove forests in the reserve cover 400 Hectares, which amounts to 42.6% of all the mangrove forests on the southern coast of Puerto Rico. Because such a large portion of the valuable forest lies within the reserve boundaries, this establishes the Jobos Bay Reserve as “a site of unique ecological value” (Laboy, 2002). The mangrove forests cover 25% of the reserve area, making it a dominant habitat type in the reserve. Three types of mangrove forests can be found in the reserve; basin, fringe, and overwash forests, which develop in areas with different degrees of saltwater saturation. Mangroves are some of the limited number of plants that thrive in soil saturated by salty or brackish water, which explains why they cover such an extensive area of the reserve. Just inland from the mangrove forests are salt flats, and hyper saline lagoons. These salt flats and lagoons allow the growth of salt-tolerant species like saltwort and sea purslane.

Coral reefs are also very important ecological features of the Jobos Bay Estuary. Coral reefs are amazing communities of marine life. Most of the coral reefs in JBNERR are linear reefs, which are mostly located along the outer edge of the Cayos de Barca and Cayos de Caribe. The linear reefs are also oriented parallel to the bay's shore. Coral reefs offer many benefits to the many animals and plants that make the area their home. They can protect the coastline from strong waves during storms and hurricanes. Coral reefs also alter the direction and speed of

ocean currents, which allows the growth of plant and animal communities associated with the reef.

The properties that the DNER would like to acquire offer many benefits for the JBNERR. Sucesión Vazquez is 92.64 acres behind the visitor's center to the reserve. The parcel behind the visitor's center offers an additional buffer area, and the opportunity for the reserve to better manage the variety of mangrove forests and salt flats that make up the property. The land is a very important ecological area for the varied habitats it provides for many protected species. It also allows better access to the bay for visitors to the reserve. The area of wetlands behind the visitor center has the only coastal access into Jobos Bay that is not mangrove forests. The location of the parcel is also adjacent to the Aguirre State Forest, in addition to being right next to the JBNERR boundaries. By including the Sucesión Vazquez lands, the DNER will establish a biological corridor connecting the two protected areas.

The two islands, Ratones and Pajaros are covered in mangrove forests, as well as ringed by coral reefs. The 2005 extension of the boundaries lengthened the boarder to include water one mile from the coastline of the islands. These islands are also protected areas, and have no access or development opportunities, despite the fact that they are privately owned. The DNER already owns 4 of the 7 Cayos de Barca, and the acquisition of the other islands is a priority. The former owner of Isla Pajaros, Sra. Ines Nadal, had written a letter in 2004 to the DNER announcing intent to sell the property. The current landowners, Jose Luis Figueroa, Maria de los Angeles Casas, Arnaldo palmer Lopez and Rosa Elena Figuero were determined by a title study performed by the L.J.N. Title Search Company in 2008. The landowner of Cayo Ratones (Matias) was determined after the visit to the island, when a sign declared the island to be property of Sr. Alvarado and encouraged visitors to call him for tours and activities. The Cayos La Barca are owned by C.R. Caribbean Realty Corp. and have been advertised for sale and development. Because of this development pressure, and because of their importance as a part of the arc of coral reefs outside of the bay, the DNER would like to purchase the property to ensure their protection. This desire is fueled by the fact that the islands are already littered with garbage, and makeshift structures that are built into mangrove trees. Both of these actions are highly illegal and are damaging the integrity of the bay. The garbage is particularly troublesome as it eventually makes its way out with the tides and pollutes the waters.

Occasionally when the purchase of land for a park or nature reserve is proposed, those opposed will claim that putting aside land prevents development, as well as costs money. The costs of conservation are immediately evident, and include the cost of buying the land, and the lost tax revenue once the land is no longer privately owned. However, the benefits of land conservation can substantially outweigh the costs. As explained in the 2009 Economic Benefits of Parks and Open Space report published by the Trust for Public Land, the benefits can come from various sources. Lost property taxes can usually be recovered within a few years because the property value of the surrounding areas will increase due to the creation of the park or nature reserve. As an example, Chicago's Millennium Park was paid for in part by the increased property tax revenue on the nearby homes whose value went up after the creation of the park.

More importantly for the conservation of an area like Jobos Bay is the cost of replacing the services performed by natural systems. This refers to the natural services like climate regulation, clean air, storm buffer zones, and many others. Coral reefs, watersheds, and flood plains are all incredibly valuable in mitigating the effects of storms and flooding. A specific example of the dollar value that natural services have is clear in a 2002 study performed by the Trust for Public Land and the American Water Works Association. The study of 27 water suppliers showed that the more forest cover a watershed has, the less the water treatment costs. This service comes from the forest's ability to cleanse the water. Roots can filter the water, plants and algae consume nutrients and bacteria decompose organic material, all of which would have to be removed through filtration systems without nature's contribution. Another service that nature performs is storm damage control. This includes flood plains, which can be flooded without excess damage to the area, as well as coral reefs, which control the impact of waves from storms.

A report by Robert Costanza "The Value of the World's Ecosystem Services and Natural Capital" attempted to estimate the value of all the services performed by natural resources, if they were to be either restored or replaced, such as replacing wetlands with water filtration plants. The estimation was \$33 trillion US each year. These services range from slowing water currents, to filtering excess minerals out of the water supply. This estimation clearly points out the large contribution that ecosystems make to human wellbeing.

When the costs of purchasing the land are compared with the lost benefits of the natural ecosystems, the creation of a nature reserve seems less costly and more cost-saving. The coral

reefs and mangrove forests of the 3 areas around Jobos Bay National Estuarine Research Reserve are an important part of the ecosystem in the bay, and if these areas are not protected, negative effects on the related areas and habitats will be difficult to curb. This could require more funds to battle the effects of the pollution, which over time could become greater than initial cost of acquiring the lands. The acquisition of these 3 priority areas will go far in ensuring the continued conservation and protection of the JBNERR.

The legal justification for this acquisition project is found in Ley Núm 23 de 20 de junio de 1972 Ley Orgánica del Departamento de Recursos Naturales y Ambientales. This law, which created the DNER, gives it the right to purchase land to help accomplish its goals.

**Part c): Names, Physical Addresses, and partial mailing addresses of all parties interested in acquisition**

**Isla Pajaros:**

Jose Luis Figueroa

Rosa Elena Figueroa

Maria de Los Angeles Casas

Arnaldo Palmer Lopez

**Cayo Ratones:**

Sr. Alvarado

**Sucesión Vazquez:**

Sucn Cruz Melendez Gonzalez- PO Box 492, Aguirre, PR 00707

Martinez Melendez Francisco, Salinas, PR 00751

Colon Soto Guadalupe, Salinas, PR 00751

Frazer Thomas B, Salinas, PR 00751

Autoridad de Tierras de PR, PO Box 9745, San Juan, PR 00908

Corp Azucarera de PR, Aguirre, PR 00704

Ponce y Guayama Railroad Co, Salinas, PR 00751

**Part n): Images from the Team's Visit to the Acquisition Lands**

Photos of Sucesión Vazquez



Photos of Garbage Sites on Cayo Ratones



Photos of Garbage Sites on Isla Pajaros



## Appendix C: Part m): Letter from the Secretary of the DNER



PO Box 366147  
San Juan, PR 00936  
Tel. (787) 999-2200  
Fax: (787) 999-2303

Estado Libre Asociado de Puerto Rico

### Departamento de Recursos Naturales y Ambientales

Daniel J. Galán Kercadó  
Secretario

23 de abril de 2010

Estimados Señores

En el propuesto Plan de Manejo propuesto del 2010 para la Reserva Nacional de Investigación Estuarina de Bahía de Jobos (JBNERR por sus siglas en inglés), varias propiedades se identifican como las prioridades de adquisición. De ellos, tres han iniciado el proceso de conformidad con el Reglamento de Adquisición de Bienes Reales de 2008. JBNERR es administrada por el Departamento de Recursos Naturales y Ambientales (DRNA) y por la Administración Nacional Oceánica y Atmosférica (NOAA, por sus siglas en inglés). Estas propiedades, Isla Pájaros, Cayo Ratones (Matías) y Sucesión Vázquez contienen un caudal de recursos de gran valor ecológico, como arrecifes de coral, manglares y praderas de yerbas marinas.

Como parte de la responsabilidad del DRNA para proteger los recursos naturales de Puerto Rico, estamos interesados en la obtención de estas propiedades que se incluirán en la JBNERR, y apoyará el proyecto de adquisición de estas propiedades.

Atentamente

Daniel J. Galán Kercadó  
Secretario  
DRNA



Estado Libre Asociado de Puerto Rico

**Departamento de Recursos Naturales y Ambientales**

Daniel J. Galán Kercadó  
Secretario

PO Box 366147  
San Juan, PR 00936  
Tel. (787) 999-2200  
Fax: (787) 999-2303

April 23, 2010

Dear Sirs,

In the proposed 2010 Management Plan for Jobos Bay National Estuarine Research Reserve, several properties are outlined as acquisition priorities. Of these, three have begun the process of compliance with the Regulation for Real Estate Acquisition of 2008. Jobos Bay (JBNERR) is administered by the Department of Natural and Environmental Resources (DNER) and the National Oceanic and Atmospheric Administration (NOAA). These properties, Isla Pajaros, Cayo Ratones (Matias) and Sucesión Vazquez contain a wealth of ecologically valuable resources, including coral reefs, mangrove forests, and seagrass beds.

As a part of the responsibility of the DNER to protect the natural resources of Puerto Rico, we are interested in obtaining these properties to be included in Jobos Bay National Estuarine Research Reserve, and will support the acquisition project for these properties.

Sincerely,

Daniel J. Galán Kercadó  
Secretary  
DRNA

## Appendix D: Planning Board Guide: Transacción de Terrenos



Los casos sobre transacciones de terrenos que se radicarán ante la Junta son aquellos no cubiertos entre las delegaciones de la Administración de Reglamentos y Permisos (ARPEI), mediante resolución expresa de la Junta de Planificación.

**En estos casos se someterán los siguientes documentos en un cartapacio de acuerdo a las instrucciones que se adjuntan y además grabado en un Disco Compacto en original (CD) utilizando el Programa Publicador provisto por la Junta de Planificación:**

**Forma JP-31-A incluyendo el Anejo 1** debidamente firmado en original y en tamaño legal (8 1/2" x 14"). Deberá completarse cada uno de los encasillados del nuevo formulario, cuando no aplique favor indicarlo con N/A.

**Memorial Explicativo debidamente firmado que incluya:** una descripción de las obras propuestas, costo y procedencia de los fondos para su construcción; propósito, justificación y servicio a ofrecer por la obra propuesta; cabida aproximada de los terrenos envueltos; propietario de los terrenos y su dirección postal; uso a que se dedican actualmente estos terrenos; en construcción de caminos o calles, informar el ancho de servidumbre total y de rodaje; si requiere adquisición de terrenos, informar cabida aproximada de los mismos. Infraestructura disponible (agua, energía eléctrica, alcantarillados, vías de acceso, etc.). Zonificación de los terrenos. El proyecto se deberá discutir a tono con la reglamentación vigente, Planes de Usos de Terrenos y deberá indicar el beneficio que derivaría la Comunidad con respecto al proyecto.

**Evidencia de Titularidad** (cuando la Agenda proponente es dueña de los terrenos) notariada y/o certificada y firmada. En casos de herencia, deberá presentar copia de la Declaratoria de Herederos. (Como Evidencia de Titularidad podrá someter cualquiera de los siguientes documentos siempre que estén notariados, certificados y firmados: Escritura de Compraventa, Certificación del Registro de la Propiedad, Contrato de Opción de Compraventa y/o Contrato de Arrendamiento o Certificación del Jefe de la Agencia o Alcalde en la que describa al terreno e indique que son propietarios de los terrenos en cuestión).

**De ser custodio de los terrenos,** deberá presentar evidencia de que la agenda propietaria de los mismos accede a su disposición.

**Evidencia de que notificó al propietario** de los terrenos si estos fueran privados.

**Carta de Autorización** del Director de la Agencia dueña de los terrenos cuando se trate de terrenos públicos o evidencia de que notificó al propietario si los terrenos fueran privados.

**Mapa de Catastro del CRIM vigente** indicando la localización exacta. (Someta Hoja Completa)

**Mapa de Zonificación o Calificación vigente (si el predio esta zonificado)** indicando la localización exacta. (Someta Hoja Completa)

**Cuadrángulo Topográfico** escala 1:20,000- Ilustrando la localización exacta de los terrenos envueltos, incluyendo el kilometraje exacto de carretera (si el proyecto radica frente a una carretera) u otros puntos de referencia que facilite la identificación del sitio.

**Plano de Mensura** - Indicando colindantes, rumbos, distancias y cabida de los terrenos envueltos, estructuras existentes en los mismos (si alguna), accesos y colindantes. Deberá contener los números de licencias y nombres completos de los profesionales (delinante, agrimensor, ingeniero, etc.) que intervinieron en la preparación de los mismos.

**Polígono** - El plano digital deberá estar compuesto de un área formando una figura geométrica cerrada (polígono cerrado). Los formatos a utilizarse son: DWG y DXF. (Ver instrucciones para preparar Polígono)

**Foto aérea a escala 1:10,000** que localice el predio objeto de la transacción.

**Coordenadas Lambert, Datum, NAD83, revisión 1987** (anotarlas en la forma JP-31-A).

**Forma JP-CED** Certificación del Representante o Dueño de que los documentos en papel son idénticos a los digitales

### NOTAS

- 1) Todo documento o plano a someterse deberá contener los números de licencias y nombres completos de los profesionales (delinante, agrimensor, ingeniero, etc.) que intervinieron en la preparación de los mismos
- 2) No se radicará y será devuelta toda solicitud que no venga acompañada por los documentos arriba requeridos.
- 3) Toda Solicitud relacionada con un predio de terreno ubicado en un Municipio Autónomo con Oficina de Permisos, conforme al Convenio de Transferencia de Jerarquías vigente, deberá ser presentada en dicha Oficina.

## **Appendix E: Land Transactions (Translation)**

The cases of land transactions that should be filed with the Board are those not covered between Delegations to the Regulations and Permits Administration (ARPE), by specific resolution of the Planning Board.

In these cases, submit the following documents in a portfolio according to instructions are attached and also recorded on a Compact Disc in original (CD) using Publisher Program provided by the Planning Board:

JP-31 Form-A including Schedule 1 duly signed in original and legal size (8 ½ "x 14"). You must complete each of the boxes of the new form, if not please indicate it applies N / A.

Explanatory memorandum duly signed including: a description of the proposed work, cost and source of funds for its construction, purpose, justification and service to be offered by the work proposal; accommodate approximately land involved, land owner and his address; use which are currently engaged in these fields, in construction of roads or streets, report width Production total servitude and, if required land acquisition, information about the place themselves. Available infrastructure (water, electricity, sewage, roads, etc.).. Zoning of land. The project to be discussed in line with current regulations, plans Land Use and shall indicate the benefit deriving from the Community to the project.

Evidence of ownership (when the proponent agency owns the land) notarized and / or certified and signed. In cases of inheritance, shall submit a copy of the Declaration of Heirs. (As Evidence of ownership may bring any of the following documents if they are notarized, certified and signed: Deed of Sale, Certificate of Registration of Property Purchase Option Agreement and / or Lease Agreement or Certification of the Chief of the Agency or Mayor in describing the ground and indicate that they are owners of the land in question).

If the custodian of the land, must submit evidence that the agency owns them access available.

Evidence that notified the owner of the land if they were private.

Authorization Letter from the Director of the Agency owned land in the case of land evidence that public or notified to the owner if the land was private.

Cadastral map of the current CRIM indicating the exact location. (Submit Sheet Complete)

Zoning Map or current rating (if the property is zoned) indicating the location accurate. (Submit Sheet Complete)

1:20,000 scale topographic quadrangles - Illustrating the exact location of the land involved, including the exact mileage of road (if the project is facing a road) or other points of reference to facilitate the identification of the site.

Map of Measurements - Setting neighboring directions, distance and place of the land involved, existing structures in the same (if any), access and adjoining. Must contain the numbers licenses and full names of the professionals (draftsman, surveyor, engineer, etc.) that involved in the preparation thereof.

Polygon - The digital map should consist of an area forming a closed geometric figure (Closed polygon). The formats to be used are: DWG and DXF. (See instructions for preparing Polygon)

1:10,000 scale aerial photo to locate the property subject of the transaction.

Lambert coordinates, Datum, NAD83, revision 1997 (noted on the form JP-31-A). JP-CED Form Certification of Representative or Owner of the paper documents are identical to digital.

#### NOTES

1) Any document or plan to be submitted should include the license numbers and full names professionals (draftsman, surveyor, engineer, etc.) who participated in the preparation thereof

2) There shall be filed and will be returned to any request that is not accompanied by the documents required above.

3) Any application relating to a tract of land located in a Municipality with Permit Office, under the Convention for the Transfer of existing hierarchies, must be filed with that Office.

## Appendix F: Planning Board Guide: Requisitos para las Solicitudes de Reaperturas y Enmiendas a Consultas de Ubicación

Rev. Enero 2010

Gobierno de Puerto Rico  
Oficina del Gobernador  
Junta de Planificación  
San Juan, Puerto Rico



### Requisitos para las Solicitudes de Reaperturas y Enmiendas a Consultas de Ubicación

**En estos casos se presentará sólo un (1) set de los siguientes documentos en un cartapacio y un sobre manila tamaño legal y digitalizados en un CD en formato PDF**

**Forma 1P-31-A** debidamente firmada en original y en tamaño legal (8½" x 14") que se encuentra en la página de Internet ([www.jp.gobierno.pr](http://www.jp.gobierno.pr)). Deberá completar cada uno de los encasillados del nuevo formulario, cuando no aplique deberá indicarlo con N/A.

**Anejo 1** debidamente firmado en original y en tamaño legal (8½" x 14"). **Aplica sólo para proyectos de Transacción de Terrenos Públicos.**

**Memorial Explicativo debidamente firmado en original y que incluya:** El tipo de Solicitud (Reapertura, Enmienda o ambas) y una breve relación de hechos del caso. Deberá indicar el estatus en que se encuentra la consulta ante la ARPE o la Junta. Deberá incluir una tabla donde se dispongan todos los aspectos de carácter general del proyecto, específicamente sobre: altura, patios, densidad, área de ocupación, estacionamientos, etc. del distrito existente y el distrito propuesto al cual se pretende llevar el proyecto. También deberá incluir una descripción general del proyecto, descripción de la localización de los terrenos y el uso a que se dedican, área, calificación, infraestructura disponible (agua, luz, alcantarillado, vías de acceso), número y tamaño de los solares o unidades a formarse, etc. Si somete el caso conforme a las disposiciones reglamentarias sobre excepciones, deberá justificar adecuadamente dicha solicitud. El proyecto se deberá discutir a tono con la reglamentación vigente, Planes de Uso de Terrenos y deberá indicar el beneficio que derivará en la comunidad.

**Evidencia de Titularidad** copia notariada y/o certificada y firmada. **Aplica sólo para los casos en los que ha cambiado el dueño de los terrenos.**  
En casos de herencia, deberá presentar copia de la Declaratoria de Herederos. (Como Evidencia de Titularidad podrá someter cualquiera de los siguientes documentos siempre que estén notariados, certificados y firmados: Escritura de Compraventa, Certificación del Registro de la Propiedad, Contrato de Opción de Compraventa y/o Contrato de Arrendamiento).

**Carta de Autorización del dueño (s) de (los) terrenos en original. Aplica sólo para los casos en los que el representante ha cambiado.**  
Deberá incluir la dirección postal del (los) dueño (s) y no debe haber transcurrido más de tres (3) meses desde su otorgamiento. En casos de herencia la carta de autorización deberá estar firmada por todos los herederos. En casos en que el dueño es una corporación, deberá someter resolución corporativa original autorizando a realizar este trámite.

**Representación Gráfica de la Propuesta a Escala 1:2,000** - En las Solicitudes de Reapertura, el Plano de Representación Gráfica debe ser la copia del Plano sellado y autorizado por la Junta. En las Solicitudes de Enmienda, el Plano de Representación Gráfica deberá ser original e ilustrar la propuesta con su acceso a la vía pública correspondiente e incluir una tabla indicando la cantidad de unidades, las cabidas y el total de la finca objeto de la consulta, etc. Además, indicar los solares segregados mediante lotificaciones anteriores. Deberá indicar los nombres de los colindantes de los cuatro (4) puntos cardinales. Deberá contener los números de licencias y nombres completos de los profesionales (delineante, agrimensor, ingeniero, etc.) que intervinieron en la preparación de los mismos. Deberá incluir una tabla donde se dispongan todos los aspectos de carácter general del proyecto, específicamente sobre: altura, patios, densidad, áreas de ocupación, estacionamientos, etc. del distrito existente y el distrito propuesto al cual se pretende llevar el proyecto.

**Acuerdos y/o Resoluciones** de aprobación de la Administración de Reglamentos y Permisos (ARPE) o de la Junta de Planificación de Puerto Rico, para verificar la vigencia del proyecto.

**CD** con todos los documentos escaneados en formato PDF.

### NOTAS

1. Deberá cumplir con el Reglamento de Cobro vigente al momento de la presentación de la Solicitud.
2. Toda Solicitud relacionada con un predio de terreno ubicado en un Municipio Autónomo con Oficina de Permisos, conforme al Convenio de Transferencia de Jerarquías vigente, deberá ser presentada en dicha Oficina.

## **Appendix G: Requirements for request for reopening and Amendments to Inquiries Location (Translation)**

In these cases there will be only one (1) set of the following documents in a (briefcase??) and a legal size manila envelope digitized on a CD in PDF format.

JP-31 –A Form duly signed original and legal size (8 ½ "x 14") found on the website ([www.jp.gobierno.pr](http://www.jp.gobierno.pr)). You must complete each of the boxes of the new form, when they do not apply you must indicate with N / A.

(Schedule/Form/Anejo) 1 should be duly signed and in legal size (8 ½ "x 14"). This applies only to projects that involve Transaction of Public Lands.

Explanatory memorandum, duly signed, that includes: Type of Request (Reopening, Amendment, or both) and a brief statement of the facts of the case. The memo should indicate the current status of the query to the ARPE or the Board. You must include a table that has all general aspects of the project, specifically: height, yards, density, area occupancy, parking, etc., the existing district and the proposed district which the project will take place in. It will also include an overview of the project, description of the location of land and the use of the land, area, classification, available infrastructure (water, electricity, sewerage, access roads), number and size of lots or units, etc. If submitting the case in accordance with the regulations on exceptions, you must provide adequate justification for the request. The project should be discussed in line with current regulations and 'Land Use Plans', and should indicate the benefit that would result in the community.

Evidence of Ownership - notarized copy and/or certified and signed. This applies only to cases where the owner of the land has changed. In cases of inheritance, you should submit a copy of the Declaration of Heirs. (As Evidence of Ownership, you may submit any of the following documents if they are notarized, certified and signed: Deed of Sale, Certificate of Registry of Property, Contract Purchase Option and/or Lease Agreement).

Letter of Authorization from the owner (s) of (the) land. - in original. This applies only to cases where which the representative has changed.

You must include the mailing address of (the) owner (s), and this should not have been more than three (3) months since its execution. In inheritance cases, the letter of authorization must be signed by all heirs. In cases where the owner is a corporation, you should submit an original corporate resolution that indicates a person is authorized to perform this procedure.

Graphic representation of the Proposal to Scale 1:2,000 – Solicitation to reopen Applications in the Graphic representation scheme should be sealed copy of the Plan and approved by the Board. In Applications for Amendment, the Graphical Representation Plan must be original and illustrate the proposal with road access to relevant and include a table indicating the number of units, and the total of the parcel subject to perusal, etc.. In addition, indicate the sites segregated by previous subdivisions. You should indicate the names of the surrounding four (4) cardinal points . Must contain the license numbers and full names of the professionals (Draftsman, surveyor, engineer, etc.) who participated in the preparation. Must include a table where you have all the general aspects of the project, specifically height, yards, density, area of occupancy, parking, etc.

Agreements and / or resolutions of approval of the Regulations and Permits Administration (ARPE) or Planning Board of Puerto Rico, to check the validity of the project.

CD containing all scanned documents in PDF format.

#### NOTES

1. You must comply with the Rules of Recovery in effect at the time of filing of the Application.
2. Any application relating to a tract of land located in a Municipality with Office Permit in accordance with the agreement on transfer of existing hierarchies must be filed in that Office.

## Appendix H: Planning Board Guide: Instrucciones para la preparación del Polígono

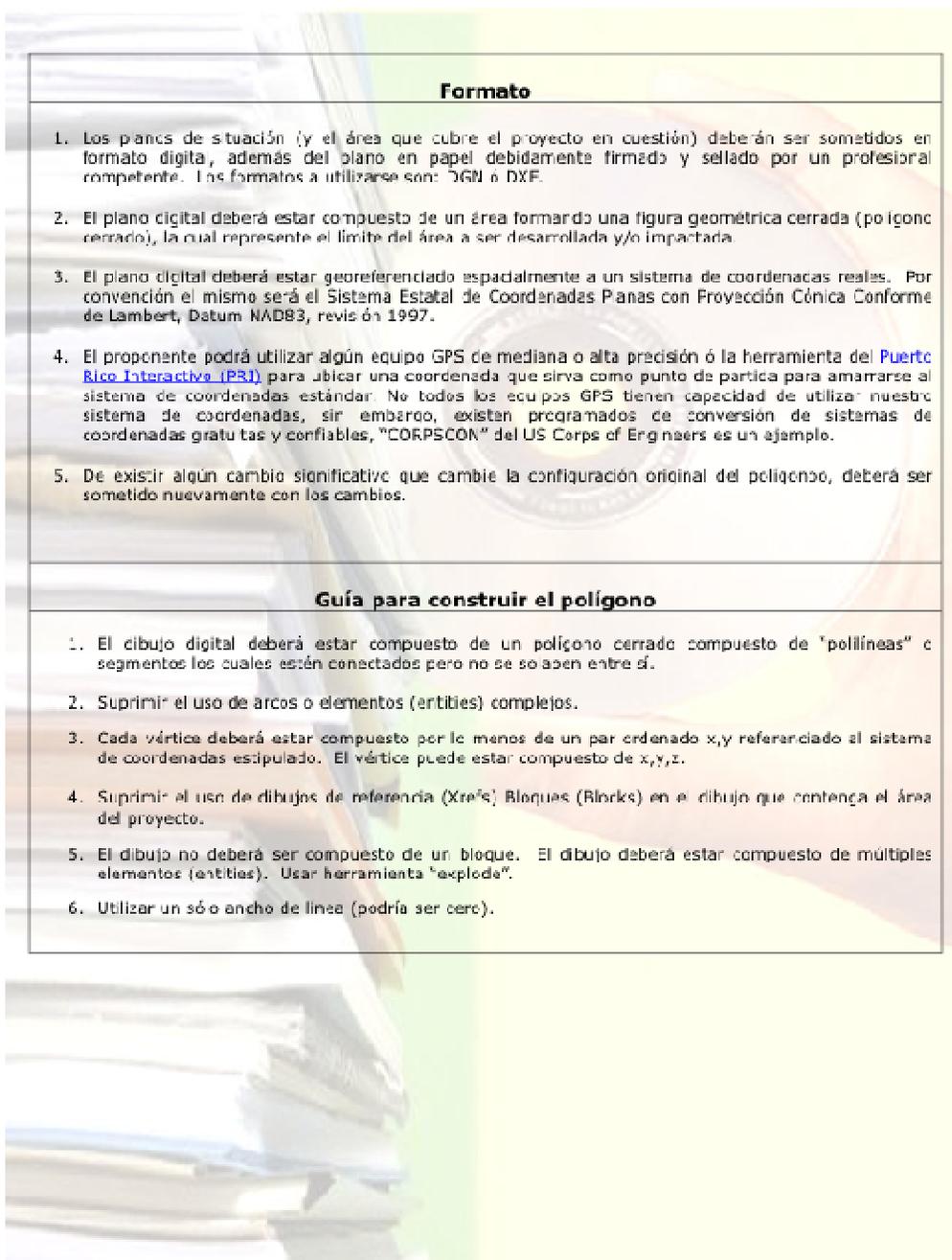


**EXPEDIENTE DIGITAL JP**

Estado Libre Asociado de Puerto Rico  
Oficina del Gobernador  
Junta de Planificación  
San Juan, Puerto Rico

Instrucciones para la preparación del Polígono

<b>Formato</b>
<ol style="list-style-type: none"><li>1. Los planos de situación (y el área que cubre el proyecto en cuestión) deberán ser sometidos en formato digital, además del plano en papel debidamente firmado y sellado por un profesional competente. Los formatos a utilizarse son: DGN ó DXF.</li><li>2. El plano digital deberá estar compuesto de un área formando una figura geométrica cerrada (polígono cerrado), la cual represente el límite del área a ser desarrollada y/o impactada.</li><li>3. El plano digital deberá estar georeferenciado espacialmente a un sistema de coordenadas reales. Por convención el mismo será el Sistema Estatal de Coordenadas Planas con Proyección Cónica Conforme de Lambert, Datum NAD83, revisión 1997.</li><li>4. El proponente podrá utilizar algún equipo GPS de mediana o alta precisión ó la herramienta del <a href="#">Puerto Rico Interactive (PRI)</a> para ubicar una coordenada que sirva como punto de partida para amarrarse al sistema de coordenadas estándar. No todos los equipos GPS tienen capacidad de utilizar nuestro sistema de coordenadas, sin embargo, existen programados de conversión de sistemas de coordenadas gratuitas y confiables, "CORPSCON" del US Corps of Engineers es un ejemplo.</li><li>5. De existir algún cambio significativo que cambie la configuración original del polígono, deberá ser sometido nuevamente con los cambios.</li></ol>
<b>Guía para construir el polígono</b>
<ol style="list-style-type: none"><li>1. El dibujo digital deberá estar compuesto de un polígono cerrado compuesto de "polilíneas" o segmentos los cuales estén conectados pero no se sobrepalen entre sí.</li><li>2. Suprimir el uso de arcos o elementos (entities) complejos.</li><li>3. Cada vértice deberá estar compuesto por lo menos de un par ordenado x,y referenciado al sistema de coordenadas estipulado. El vértice puede estar compuesto de x,y,z.</li><li>4. Suprimir el uso de dibujos de referencia (Xrefs) Bloques (Blocks) en el dibujo que contenga el área del proyecto.</li><li>5. El dibujo no deberá ser compuesto de un bloque. El dibujo deberá estar compuesto de múltiples elementos (entities). Usar herramienta "explode".</li><li>6. Utilizar un sólo ancho de línea (podría ser cero).</li></ol>



## Appendix I: Planning Board Guide: Instrucciones para la preparación del Expediente en papel

Rev. Enero 2010

Gobierno de Puerto Rico  
Oficina del Gobernador  
Junta de Planificación  
San Juan, Puerto Rico



**Instrucciones para la preparación del Expediente en papel**

**Consultas de Ubicación (Públicas y Privadas)**

- En un cartapacio, tamaño legal, se incluirán los siguientes documentos de acuerdo a este orden (ascendente a descendente):
  1. Original Formulario JP-31A vigente debidamente firmado
  2. Original del Memorial Explicativo firmado
  3. Evidencia de Titularidad
  4. Original Carta de Autorización del dueño
  5. Resoluciones aprobadas por la Junta o por ARPE (si alguna/ cuando aplique)
  6. Copia de los acuerdos y planos aprobados por ARPE (si alguno/ cuando aplique)
  7. Carta del Departamento de la Vivienda (cuando se trate de proyectos residenciales de interés social)
  8. Carta de Endoso del Departamento de Salud (cuando se trate de facilidades relacionadas/ cuando aplique)
  9. Carta de la Junta de Calidad Ambiental que indique que se cumplió con la Ley de Política Pública Ambiental (proyectos públicos/cuando aplique)
  10. Carta de evidencia de la agencia propietaria de los terrenos indicando que accede a su disposición. (proyectos públicos/cuando aplique)
  11. Evidencia de notificación al propietario de los terrenos si éstos fueran privados. (proyectos públicos/cuando aplique)
  12. Formulario JP-CED (OCT-2006) debidamente firmado por el proponente y/o representante (Certificación de que los documentos en papel son copia fiel y exacta de los documentos sometidos en digital)
  13. Cualquier otra información adicional.
- En un sobre manila, tamaño legal, se incluirán los siguientes documentos de acuerdo a este orden:
  1. Cuadrángulo Topográfico
  2. Mapa de Zonificación y/o Calificación vigente (Hoja Completa)
  3. Mapa de Catastro del CRIM (Hoja Completa)
  4. Plano de la finca o propiedad a desarrollarse
  5. Representación Gráfica de la Propuesta debidamente firmada (cuando aplique)
  6. Una (1) Foto Aérea a color escala 1:10,000 (identificado el predio)
  7. Formulario Ambiental y/o Evaluación Ambiental (2 copias/cuando aplique)
  8. Estudio de Viabilidad Económica (cuando se trate de proyectos comerciales que incluya ventas al detal)
  9. Planos de Mensura (cuando aplique)
  10. CD con la información del Proyecto creado a través del Programa Publicador

**Peticiones de Enmienda a los Mapas de Zonificación y/o Calificación:**

- En un cartapacio, tamaño legal, se incluirán los siguientes documentos de acuerdo a este orden: (ascendente a descendente):
  1. Original del Formulario JP-250 debidamente firmado
  2. Original del Memorial Explicativo debidamente firmado
  3. Original Declaración Jurada
  4. Original Carta de Autorización
  5. Evidencia de Titularidad
  6. Original de los Recibos del Correo (pegados en páginas tamaño legal en dos columnas, y enumerados en el mismo orden en que aparecen en la Forma JP-250.)
  7. Cualquier otra información adicional
- En un sobre manila, tamaño legal, se incluirán los siguientes documentos de acuerdo a este orden:
  1. Cuadrángulo Topográfico
  2. Mapa de Catastro del CRIM vigente
  3. Mapa de Zonificación y/o Calificación vigente
  4. Fotos frontales de la propiedad
  5. Foto Aérea a Color
  6. Plano de Mensura (cuando sea necesario)
  7. Polígono
  7. CD con la información del Proyecto creado a través del Programa Publicador

## **Appendix J: Instructions for preparing the paper record (Translation)**

### Location queries (Public and Private)

In a legal size binder, include the following documents pursuant to this order (ascending to descending)

1. JP-31A Original Form - duly signed
2. Original Explanatory Memorial - signed
3. Evidence of Ownership.
4. Original version of the Owner Authorization Letter.
5. Resolutions adopted by the Board or by ARPE (if any/where applicable).
6. Copies of the agreements and plans approved by ARPE (if any/where applicable).
7. Letter from the Department of Housing (in the case of residential projects with social implications)
8. Endorsement Letter from the Department of Health (in the case of facilities/when applicable).
9. Letter from the Environmental Quality Board indicating compliance with the Environmental Public Policy Act (public projects/when applicable).
10. Letter of evidence from the agency who owns the land, indicating that access is available.
11. Evidence of notification to the landowner if lands are private.
12. JP-CED Form (OCT-2006) signed by the proposer and/or representative (Certification of paper documents are true and faithful exact copies of the documents submitted in digital form)
13. Any other additional information.

In a manila envelope, include the following documents according to this order:

1. Topographic Quadrangle
2. Zoning Map
3. Cadastral map from the CRIM (Full Sheet).
4. Map of the estate or property to be developed
5. Graphic representation of the Proposal, duly signed (where applicable)
6. One (1) Color Aerial Photo 1:10,000 (identified premises)
7. Environmental Form and/or Environmental Assessment (2 copies/when applicable).
8. Economic Feasibility Study (in the case of commercial projects)

including retail)

9. Maps of Measurement (Surveys?)(where applicable)

10. CD with project information created through the Publisher Program

Petitions to Amend the Zoning Map:

In a legal sized binder, include the following documents according to this order (ascending to descending)

1. Original Form JP-250 - duly signed

2. Original Explanatory Memorial - duly signed

3. Original Affidavit

4. Original Letter of Authorization

5. Evidence of Ownership

6. Original Receipts of Post (legal size pages glued into two columns, and listed in the order they appear in the JP-250 Form.)

7. Any additional information

In a manila envelope, legal size, will include the following documents according to this order:

1. Topographic Quadrangle

2. Cadastral map of the current CRIM

3. Zoning Map

4. Frontal Photos of the Property

5. Color Aerial Photo

6. Plan of Measurement (Survey??)(if necessary)

7. Polygon

7. CD project information created through the Publisher Program

## Appendix K: Planning Board Anejo I

### Anejo I

Si la consulta de ubicación pública incluye la transacción de los terrenos, favor de completar el siguiente Anejo:

Tipo de Transacción					
<input type="checkbox"/> Compra	<input type="checkbox"/> Venta <input type="checkbox"/> Arrendamiento <input type="checkbox"/> Cesión o traspaso				
<input type="checkbox"/> Terrenos Cabida _____ <input type="checkbox"/> Edificio Pies Cuadrados _____ <input type="checkbox"/> Otros _____	<input type="checkbox"/> Terrenos Cabida _____ <input type="checkbox"/> Edificio Pies Cuadrados _____ <input type="checkbox"/> Otros _____				
<input type="checkbox"/> Permuta					
<input type="checkbox"/> Terrenos Cabida _____ <input type="checkbox"/> Edificio Pies Cuadrados _____ <input type="checkbox"/> Otros _____ Propiedad de _____	<input type="checkbox"/> Terrenos Cabida _____ <input type="checkbox"/> Edificio Pies Cuadrados _____ <input type="checkbox"/> Otros _____ Propiedad de _____				
Costo Estimado del proyecto \$ <input type="text"/> Procedencia de fondos <input type="text"/> Ley Núm. _____ de _____ Otras Fuentes _____	Si el proyecto o proposición ha sido sometido anteriormente como consulta indicar: <table border="1"> <tr> <td>Consulta Número</td> <td><input type="text"/></td> </tr> <tr> <td>Fecha de aprobación</td> <td><input type="text"/></td> </tr> </table>	Consulta Número	<input type="text"/>	Fecha de aprobación	<input type="text"/>
Consulta Número	<input type="text"/>				
Fecha de aprobación	<input type="text"/>				
Dueño de los terrenos afectados	Dirección postal del dueño de los terrenos				

#### Incluir los siguientes documentos

1. Certificación de la Radicación de la Consulta de Transacción y/o Ubicación
2. Certificación de la Intención de Adquisición de los Terrenos

\_\_\_\_\_  
 Firma del Alcalde, Jefe de Agencias  
 o su Representante Autorizado

## Appendix L: Planning Board Anejo I (Translation)

### Anejo I

If the public location query includes a land transaction, complete this Form:

<b>Type of Transaction:</b>	
<input type="checkbox"/> <b>Purchase:</b>	<input type="checkbox"/> <b>Sale:</b> <input type="checkbox"/> <b>Lease:</b> <input type="checkbox"/> <b>Assignment/Transfer:</b>
Capacity of Land: Square Feet of Building: Others:	Capacity of Land: Square Feet of Building: Others:
<b>Trade:</b> <input type="checkbox"/>	
Capacity of Land: Square Feet of Building: Others: Property of:	Capacity of Land: Square Feet of Building: Others: Property of:
<b>Estimated Cost of Project</b>  Source of Funds: Law # ____ of ____ Other Source:	If the project of proposal has already been submitted, indicate:  Query # Date of Approval:
Owner of Land Affected:	Address of Owner of Land:

Include the following Documents:

Certification of Filing of Transaction Query (Certificación de la Radicación de la consulta de transacción y/o Ubicación)

Certification of Intent for Land Acquisition (Certificación de la Intención de Adquisición de los Terrenos)

# Appendix M: RPA Form for Preliminary Approval



ARPE-15.176 (Rev.)  
May. 2007

## Estado Libre Asociado de Puerto Rico Solicitud para Aprobación de Desarrollo de Terrenos DESARROLLO PRELIMINAR O ANTEPROYECTO

Si ha sido aprobado anteriormente, indique:

Número/Fecha de Radicación		Para uso de ARPE	Caso Previo	Número	Fecha
_____ - _____ - _____			Ubicación		
Fecha (MM/DD/AA)			Desarrollo		
			Anteproyecto		
Seleccione (según aplica)		Costo	Estructuras		
<input type="checkbox"/> Anteproyecto	<input type="checkbox"/> Certificado		Lotificación Simple		
<input type="checkbox"/> Desarrollo Preliminar		Número de Empleos	Urbanización		
<input type="checkbox"/> Alterno	<input type="checkbox"/> Convencional		Planos Finales		
<input type="checkbox"/> Enmienda <input type="checkbox"/> Con Variaciones <input type="checkbox"/> Con Excepciones					
Continuar al dorso y/o completar el Anejo 1 de este formulario					
A – Uso Propuesto para Terrenos			B – Usos Propuestos*		
<input type="checkbox"/> Residencial	<input type="checkbox"/> Facilidades Recreativas	<input type="checkbox"/> Oficina	<input type="checkbox"/> Hotelero		
<input type="checkbox"/> Industrial	<input type="checkbox"/> Cementerios	<input type="checkbox"/> Educativo			
<input type="checkbox"/> Comercial	<input type="checkbox"/> Telecomunicaciones	<input type="checkbox"/> Institucional			
<input type="checkbox"/> Estacionamiento	<input type="checkbox"/> Almacén	<input type="checkbox"/> Turístico			
*Ejemplos de Usos Propuestos: Cafetería, Farmacia, Gasolinera, Oficina de Médico, Colmado, Taller de Reparaciones, Venta de Accesorios, Fumería, Restaurante, Laboratorio...					
C – Desglose de Unidades		D – Casas o Apartamentos		E – Proyectos Comerciales, Industriales, etc.	
<input type="checkbox"/> Una familia	Unidades	<input type="checkbox"/> Estudio / Eficiency	Unidades	<input type="checkbox"/> Venta	Area Bruta de Piso (m.c.)
<input type="checkbox"/> Multi-familiar		<input type="checkbox"/> Un Dormitorio		<input type="checkbox"/> Manufactura	
<input type="checkbox"/> Casas en Hilera		<input type="checkbox"/> Dos Dormitorios		<input type="checkbox"/> Oficina	
<input type="checkbox"/> Condominio		<input type="checkbox"/> Tres Dormitorios		<input type="checkbox"/> Almacén	
<input type="checkbox"/> Hotel		<input type="checkbox"/> Más de Tres Dormitorios		<input type="checkbox"/> Comunes	
<input type="checkbox"/> Casas Gemelas		<input type="checkbox"/> Otro (especifique)		<input type="checkbox"/> Otro (especifique)	
<input type="checkbox"/> Casas Patio					
F – Tipo de Cabida (min/max)		Solares	Area	G – Otros Datos	
1.				Datos	Propuesto
2.				Altura Máxima Plantas	Existente
3.				Altura Máxima Metros	
4.				Densidad Poblacional (m.c./u.b.v.)	
5.				Area Bruta de Piso (m.c.)	
6.				Area de Ocupación (m.c.)	
7.				Tamaño de Patios (m.c.)	
8.				Delantero	
9.				Izquierdo	
10.				Derecho	
H – Desglose de Solares				Posterior	
Cabida a Desarrollarse (m.c.)				Interior	
Estacionamiento (# espacios)				Elevación de Terrenos (M.S.L.)	
<input type="checkbox"/> Compactos				Máximo	
<input type="checkbox"/> Regulares				Mínimo	
<input type="checkbox"/> Dobles					
<input type="checkbox"/> Impedidos					
I – Comentarios Adicionales					



# Appendix N: Planning Board Form JP-31A

JP-31A(B)  
Rev. MAR 2007

Estado Libre Asociado de Puerto Rico  
Oficina del Gobernador  
Junta de Planificación  
Santurce, Puerto Rico

## Para Solicitudes de Reapertura y Enmiendas a Consultas de Ubicación que no son de Expediente Digital

A ser completado por la Junta de Planificación

Consulta Número: \_\_\_\_\_ Fecha Radicación: \_\_\_\_\_

### I. Información General del Proyecto

1. Tipo de Consulta de Ubicación			2. Tipo de Radicación		3. Cabida de la Finca en Cuerdas												
<input type="checkbox"/> Desarrollo Extenso <input checked="" type="checkbox"/> Solares mayor de 9 <input type="checkbox"/> Solares menores o igual a 9			<input type="checkbox"/> Mejora Pública <input type="checkbox"/> Especial <input type="checkbox"/> Otro		<input type="checkbox"/> Privado <input type="checkbox"/> Público		Según Escritura		Según Mensura								
<b>4. Especifique Tipo de Proyecto</b> <input type="checkbox"/> Residencial <input type="checkbox"/> Urbanización <input type="checkbox"/> Multifamiliar <input type="checkbox"/> Mixto <input type="checkbox"/> Solares			<input type="checkbox"/> Comercial <input type="checkbox"/> Centro Comercial <input type="checkbox"/> Locales Comerciales <input type="checkbox"/> Oficinas Profesionales <input type="checkbox"/> Solares		<input type="checkbox"/> Turístico <input type="checkbox"/> Hotel <input type="checkbox"/> Cabañas Turísticas <input type="checkbox"/> Mixto <input type="checkbox"/> Otro		<input type="checkbox"/> Industrial <input type="checkbox"/> Solares Ind. <input type="checkbox"/> Almacén <input type="checkbox"/> Otro		<input type="checkbox"/> Institucional <input type="checkbox"/> Escuela <input type="checkbox"/> Centros <input type="checkbox"/> Otro		<input type="checkbox"/> Otros Indique						
5. Unidades																	
6. Cabida de Solares (Metros Cuadrados)																	
7. Area Bruta Construcción (Pies Cuadrados)																	
8. Area Neta Ventas (Proyecto Comercial) (Pies Cuadrados)																	
9. Area Servicios y Almacén Proyecto Comercial (Pies Cuadrados)																	
10. Estacionamientos requeridos																	
11. Estacionamientos propuestos																	
12. Nombre del Proyecto						13. Breve Descripción del Proyecto											
14. Localización Exacta del Proyecto						15. Número de Catastro											
Ave/Carr Num/Km						Escala del Mapa <input type="checkbox"/> 1:10,000 <input type="checkbox"/> 1:1,000											
Sector / Urb						Municipio		Mapa		Manzana		Parcela					
Barrio																	
Municipio						16. Historial en Junta de Planificación o Administración de Reglamentos y Permisos (ARPE); indicar caso anterior sometido a la Junta de Planificación y con respecto a segregaciones propuestas indique los solares formados en la finca principal:											
17. Coordenadas Lambert, Datum NAD83						Caso Número				Cantidad de Solares							
X _____ Y _____																	
18. Zonificación o Calificación			19. Terrenos Deslizables			20. Inundabilidad <input type="checkbox"/> Si <input type="checkbox"/> No											
Distrito (s)			Hoja Número			Fecha de Vigencia			Zona Inundable			Hoja Número			Fecha Vigencia		
21. Colindancias						22. Datos de Inscripción											
Norte						Registro de la Propiedad de:											
Sur						Folio											
Este						Tomo											
Oeste						Finca Núm.											
23. Costo del Proyecto y Fuente de Financiamiento						24. Fuente de Fondos No-Federales (\$)											
Costo: (\$) _____						a. <input type="checkbox"/> Resolución Conjunta del Presupuesto _____											
Financiamiento Propuesto						b. <input type="checkbox"/> Fondos Propios _____ c. <input type="checkbox"/> Emisión de Bonos _____											
a. <input type="checkbox"/> Federal _____ d. <input type="checkbox"/> Fondos Propios _____						d. <input type="checkbox"/> Servicios en Especie _____ e. <input type="checkbox"/> Otros (Explique) _____											
b. <input type="checkbox"/> Estatal _____ e. <input type="checkbox"/> Otros _____						25. Empleos a Generar											
c. <input type="checkbox"/> Municipal _____						Fase de Construcción _____ Fase de Operación _____											

**II. Disposiciones Reglamentarias**

26. Reglamentos	Fecha de Vigencia	Tópico	Sección	Inciso	Páginas
<input type="checkbox"/> Reglamento para Procedimientos Adjudicativos de la Junta de Planificación					
<input type="checkbox"/> Reglamento Zonificación de Puerto Rico (Reglamento número 4)					
<input type="checkbox"/> Reglamento Ordenación Territorial del Municipio _____					
<input type="checkbox"/> Reglamento Especial					
<input type="checkbox"/> Otro					
<b>27. Disposiciones Reglamentarias</b>					
<input type="checkbox"/> Desarrollo Extenso					
<input type="checkbox"/> Variación en Uso/Otras Variaciones					
<input type="checkbox"/> Excepciones					
<b>28. De no aplicar los Reglamentos anteriores, indique bajo que Ley, Resolución Especial o base legal está solicitando esta consulta.</b>					
<b>29. Parámetros de Construcción aplicables</b>			<b>30. Otras Disposiciones aplicables</b>		

**III. Información Adicional**

<b>31. Sistemas Naturales existentes en el área del proyecto</b>			<b>32. Suelos de los Terrenos</b>		
<input type="checkbox"/> Ríos	<input type="checkbox"/> Manantiales	<input type="checkbox"/> Cavernas	Capacidad Agrícola del Terreno		
<input type="checkbox"/> Lagos	<input type="checkbox"/> Mogotes	<input type="checkbox"/> Lagunas	Tipo de Suelo		
<input type="checkbox"/> Quebradas	<input type="checkbox"/> Sumideros	<input type="checkbox"/> Humedales	Declive		
<input type="checkbox"/> Dunas	<input type="checkbox"/> Cerros Calizos	<input type="checkbox"/> Bosque			
<input type="checkbox"/> No existen	<input type="checkbox"/> Otros _____				
<b>33. Zona Costanera</b> (1,000 metros lineales tierra adentro desde la línea de costa) Ver Reglamento 17			<b>34. Usos existentes en el área del proyecto</b>		
<input type="checkbox"/> Si <input type="checkbox"/> No			Uso existente		
			Uso propuesto		
			Uso predominante		
<b>35. Acceso de la propiedad</b>	<b>Ancho de Rodaje</b>	<b>Ancho de Servidumbre</b>	<b>36. Infraestructura Disponible</b>		
Servidumbre de Paso			<b>a. Disposición de aguas usadas</b>		
Carretera Estatal Número (Km. Hm.)			<input type="checkbox"/> Alcantarillado Sanitario <input type="checkbox"/> Pozo Séptico <input type="checkbox"/> Planta de Tratamiento		
Calle Municipal (Nombre)			<b>b. Agua Potable</b>		
			<input type="checkbox"/> AAA <input type="checkbox"/> Pozo de Agua <input type="checkbox"/> Punto de Conexión <input type="checkbox"/> Capacidad línea		
			<b>c. Energía Eléctrica</b>		
			<input type="checkbox"/> AEE <input type="checkbox"/> Planta Privada <input type="checkbox"/> Punto de Conexión <input type="checkbox"/> Capacidad línea		

**IV. Evidencia de Autorización para radicar ante la JP (Favor indicar de quien incluye carta de autorización en el expediente)**

Dueño     Sucesión     Corporación     Sociedad Especial     Municipio     Jefe de Agencia

**V. Información del Propietario**

Nombre		Dirección Postal	Teléfono	Fax
<b>37. Dueño de Finca</b>				
Email				
<b>38. Representante</b>			Teléfono	Fax
Email				
<b>39. Nombre del Proyecto</b>				
<b>40. Datos sobre el Dueños (sí es una Corporación):</b>				
Nombre de la Corporación según está incorporada en el Departamento de Estado de Puerto Rico				
Dirección Postal en Puerto Rico				
Si incorporada fuera de Puerto Rico, dirección postal en el Estado o país de incorporación				
Si es una subsidiaria, Nombre y dirección postal de la Corporación matriz				
<b>41. Nombre, ocupación y dirección postal de los miembros que componen la Junta de Directores de la Corporación y Accionistas principales:</b>				
Nombre		Ocupación	Dirección Postal	
<b>42. Datos sobre los Dueños (sí es una Sociedad):</b>				
Nombre	Cargo	Ocupación	Clase de Socio	Dirección
<b>43. Nombre de las asociaciones profesionales a que pertenece la firma</b>				
<b>44. Proyectos realizados en y fuera de Puerto Rico</b>				
Proyecto		Dirección		
<b>45. Instituciones Financieras de los proyectos enumerados en el Apartado anterior</b>				

**VI. Certificación de Colindantes**

Yo, \_\_\_\_\_ Mayor de edad y vecino de \_\_\_\_\_

Certifico que, los nombres y direcciones postales de los colindantes inmediatos de los cuatro (4) puntos cardinales de la(s) finca(s) objeto de esta Consulta son los siguientes:

NORTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

SUR	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

ESTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

OESTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

**Nota: De ser mayor el número de colindantes, deberá completar la información en una hoja separada y acompañarse con este documento.**

**Declaración del Dueño, Proponente o Representante**

Declaro que esta solicitud ha sido examinada y completada por mí y según mi mejor información y creencia es cierta

\_\_\_\_\_  
Fecha

\_\_\_\_\_  
Firma del Dueño, Proponente o Representante

**NOTA**

No se radicará y será devuelta toda solicitud que no incluya información y documentos indicados en el listado preparado para esos fines.

# Appendix O: Planning Board Form JP-31A (Other)

JP-31A(B)  
Rev. MAR 2007

Estado Libre Asociado de Puerto Rico  
Oficina del Gobernador  
Junta de Planificación  
Santurce, Puerto Rico

## Para Solicitudes de Reapertura y Enmiendas a Consultas de Ubicación de casos radicados a través del Expediente Digital

A ser completado por la Junta de Planificación

Consulta Número: \_\_\_\_\_ Fecha Radicación: \_\_\_\_\_

### I. Información General del Proyecto

1. Tipo de Consulta de Ubicación			2. Tipo de Radicación		3. Cabida de la Finca en Cuerdas			
<input type="checkbox"/> Desarrollo Extenso <input type="checkbox"/> Mejora Pública <input checked="" type="checkbox"/> Solares mayor de 9 <input type="checkbox"/> Especial <input type="checkbox"/> Solares menores o igual a 9 <input type="checkbox"/> Otro			<input type="checkbox"/> Privado <input type="checkbox"/> Público		Según Escritura		Según Mensura	
4. Especifique Tipo de Proyecto	<input type="checkbox"/> Residencial	<input type="checkbox"/> Comercial	<input type="checkbox"/> Turístico	<input type="checkbox"/> Industrial	<input type="checkbox"/> Institucional	<input type="checkbox"/> Otros		
	<input type="checkbox"/> Urbanización <input type="checkbox"/> Multifamiliar <input type="checkbox"/> Mixto <input type="checkbox"/> Solares	<input type="checkbox"/> Centro Comercial <input type="checkbox"/> Locales Comerciales <input type="checkbox"/> Oficinas Profesionales <input type="checkbox"/> Solares	<input type="checkbox"/> Hotel <input type="checkbox"/> Cabañas Turísticas <input type="checkbox"/> Mixto <input type="checkbox"/> Otro	<input type="checkbox"/> Solares Ind. <input type="checkbox"/> Almacén <input type="checkbox"/> Otro	<input type="checkbox"/> Escuela <input type="checkbox"/> Centros <input type="checkbox"/> Otro	Indique		
5. Unidades								
6. Cabida de Solares (Metros Cuadrados)								
7. Area Bruta Construcción (Pies Cuadrados)								
8. Area Neta Ventas (Proyecto Comercial) (Pies Cuadrados)								
9. Area Servicios y Almacén Proyecto Comercial (Pies Cuadrados)								
10. Estacionamientos requeridos								
11. Estacionamientos propuestos								
12. Nombre del Proyecto				13. Breve Descripción del Proyecto				
14. Localización Exacta del Proyecto				15. Número de Catastro				
				Escala del Mapa <input type="checkbox"/> 1:10,000 <input type="checkbox"/> 1:1,000				
Ave/Carr Num/Km				Municipio	Mapa	Manzana	Parcela	
Sector / Urb								
Barrio								
Municipio				16. Historial en Junta de Planificación o Administración de Reglamentos y Permisos (ARPE); indicar caso anterior sometido a la Junta de Planificación y con respecto a segregaciones propuestas indique los solares formados en la finca principal:				
17. Coordenadas Lambert, Datum NAD83				Caso Número			Cantidad de Solares	
X _____ Y _____								
18. Zonificación o Calificación			19. Terrenos Deslizables		20. Inundabilidad <input type="checkbox"/> Si <input type="checkbox"/> No			
Distrito (s)	Hoja Número	Fecha de Vigencia	<input type="checkbox"/> Si <input type="checkbox"/> No		Zona Inundable	Hoja Número	Fecha Vigencia	
21. Colindancias				22. Datos de Inscripción				
Norte				Registro de la Propiedad de:				
Sur				Folio				
Este				Tomos				
Oeste				Finca Núm.				
23. Costo del Proyecto y Fuente de Financiamiento				24. Fuente de Fondos No-Federales (\$)				
Costo: (\$) _____				a. <input type="checkbox"/> Resolución Conjunta del Presupuesto _____				
Financiamiento Propuesto				b. <input type="checkbox"/> Fondos Propios _____    c. <input type="checkbox"/> Emisión de Bonos _____				
a. <input type="checkbox"/> Federal _____    d. <input type="checkbox"/> Fondos Propios _____				d. <input type="checkbox"/> Servicios en Especie _____    e. <input type="checkbox"/> Otros (Explique) _____				
b. <input type="checkbox"/> Estatal _____    e. <input type="checkbox"/> Otros _____				25. Empleos a Generar				
c. <input type="checkbox"/> Municipal _____				Fase de Construcción _____ Fase de Operación _____				

**II. Disposiciones Reglamentarias**

26. Reglamentos	Fecha de Vigencia	Tópico	Sección	Inciso	Páginas
<input type="checkbox"/> Reglamento para Procedimientos Adjudicativos de la Junta de Planificación					
<input type="checkbox"/> Reglamento Zonificación de Puerto Rico (Reglamento número 4)					
<input type="checkbox"/> Reglamento Ordenación Territorial del Municipio _____					
<input type="checkbox"/> Reglamento Especial					
<input type="checkbox"/> Otro					
<b>27. Disposiciones Reglamentarias</b>					
<input type="checkbox"/> Desarrollo Extenso					
<input type="checkbox"/> Variación en Uso/Otras Variaciones					
<input type="checkbox"/> Excepciones					
<b>28. De no aplicar los Reglamentos anteriores, indique bajo que Ley, Resolución Especial o base legal está solicitando esta consulta.</b>					
<b>29. Parámetros de Construcción aplicables</b>			<b>30. Otras Disposiciones aplicables</b>		

**III. Información Adicional**

<b>31. Sistemas Naturales existentes en el área del proyecto</b>			<b>32. Suelos de los Terrenos</b>		
<input type="checkbox"/> Ríos	<input type="checkbox"/> Manantiales	<input type="checkbox"/> Cavernas	Capacidad Agrícola del Terreno		
<input type="checkbox"/> Lagos	<input type="checkbox"/> Mogotes	<input type="checkbox"/> Lagunas	Tipo de Suelo		
<input type="checkbox"/> Quebradas	<input type="checkbox"/> Sumideros	<input type="checkbox"/> Humedales	Declive		
<input type="checkbox"/> Dunas	<input type="checkbox"/> Cerros Calizos	<input type="checkbox"/> Bosque			
<input type="checkbox"/> No existen	<input type="checkbox"/> Otros _____				
<b>33. Zona Costanera</b> (1,000 metros lineales tierra adentro desde la línea de costa) Ver Reglamento 17			<b>34. Usos existentes en el área del proyecto</b>		
<input type="checkbox"/> Sí <input type="checkbox"/> No			Uso existente		
			Uso propuesto		
			Uso predominante		
<b>35. Acceso de la propiedad</b>	<b>Ancho de Rodaje</b>	<b>Ancho de Servidumbre</b>	<b>36. Infraestructura Disponible</b>		
Servidumbre de Paso			<b>a. Disposición de aguas usadas</b>		
			<input type="checkbox"/> Alcantarillado Sanitario <input type="checkbox"/> Pozo Séptico <input type="checkbox"/> Planta de Tratamiento		
Carretera Estatal Número (Km. Hm.)			<b>b. Agua Potable</b>		
			<input type="checkbox"/> AAA <input type="checkbox"/> Pozo de Agua <input type="checkbox"/> Punto de Conexión <input type="checkbox"/> Capacidad línea		
Calle Municipal (Nombre)			<b>c. Energía Eléctrica</b>		
			<input type="checkbox"/> AEE <input type="checkbox"/> Planta Privada <input type="checkbox"/> Punto de Conexión <input type="checkbox"/> Capacidad línea		

**IV. Evidencia de Autorización para radicar ante la JP (Favor indicar de quien incluye carta de autorización en el expediente)**

Dueño     Sucesión     Corporación     Sociedad Especial     Municipio     Jefe de Agencia

**V. Información del Propietario**

Nombre		Dirección Postal	Teléfono	Fax
<b>37. Dueño de Finca</b>				
Email				
<b>38. Representante</b>			Teléfono	Fax
Email				
<b>39. Nombre del Proyecto</b>				
<b>40. Datos sobre el Dueños (si es una Corporación):</b>				
Nombre de la Corporación según está incorporada en el Departamento de Estado de Puerto Rico				
Dirección Postal en Puerto Rico				
Si incorporada fuera de Puerto Rico, dirección postal en el Estado o país de incorporación				
Si es una subsidiaria, Nombre y dirección postal de la Corporación matriz				
<b>41. Nombre, ocupación y dirección postal de los miembros que componen la Junta de Directores de la Corporación y Accionistas principales:</b>				
Nombre		Ocupación	Dirección Postal	
<b>42. Datos sobre los Dueños (si es una Sociedad):</b>				
Nombre	Cargo	Ocupación	Clase de Socio	Dirección
<b>43. Nombre de las asociaciones profesionales a que pertenece la firma</b>				
<b>44. Proyectos realizados en y fuera de Puerto Rico</b>				
Proyecto		Dirección		
<b>45. Instituciones Financieras de los proyectos enumerados en el Apartado anterior</b>				

**VI. Certificación de Colindantes**

Yo, \_\_\_\_\_ Mayor de edad y vecino de \_\_\_\_\_

Certifico que, los nombres y direcciones postales de los colindantes inmediatos de los cuatro (4) puntos cardinales de la(s) finca(s) objeto de esta Consulta son los siguientes:

NORTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

SUR	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

ESTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

OESTE	Zonificación	Nombre	Dirección Postal (No residencial)	Número Catastro

**Nota: De ser mayor el número de colindantes, deberá completar la información en una hoja separada y acompañarse con este documento.**

**Declaración del Dueño, Proponente o Representante**

Declaro que esta solicitud ha sido examinada y completada por mí y según mi mejor información y creencia es cierta

\_\_\_\_\_  
Fecha

\_\_\_\_\_  
Firma del Dueño, Proponente o Representante

**NOTA**

No se radicará y será devuelta toda solicitud que no incluya información y documentos indicados en el listado preparado para esos fines.

**Appendix P: Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales**

**Estado Libre Asociado de Puerto Rico  
Departamento de Recursos Naturales y Ambientales**

DEPARTAMENTO DE ESTADO

Número: **7624**

Fecha: **5 de diciembre de 2008**

Aprobado: Hon. Fernando J. Bonilla  
Secretario de Estado

Por:   
**Francisco José Martín Caso**  
Secretario Auxiliar de Servicios



\_\_\_\_ de \_\_\_\_\_ de \_\_\_\_\_

Estado Libre Asociado de Puerto Rico  
Departamento de Recursos Naturales y Ambientales

**Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del  
Departamento de Recursos Naturales y Ambientales**

**INDICE**

Artículo I: Título .....	3
Artículo II: Base Legal .....	3
Artículo III: Propósito .....	3
Artículo IV: Definiciones .....	4
Artículo V: Criterios para la Adquisición de Propiedad Inmueble .....	8
Artículo VI: Administración.....	9
Artículo VII: Procedimiento para la Adquisición de Propiedad Inmueble.....	
Sección 1: Proyecto de Adquisición .....	9
Sección 2: Trámite de Adquisición .....	11
Sección 3: Informe de Tasación o Valoración .....	12
Sección 4: Adquisición Mediante Compra Directa .....	14
Sección 5: Adquisición Mediante Expropiación .....	16
Sección 6: Permutas .....	18
Artículo VIII: Adquisición de Propiedad Inmueble y Derechos Reales Mediante Cesión .....	
Sección 1: Oficina Coordinadora .....	18
Sección 2: Documentos Requeridos .....	19
Sección 3: Procedimiento de Adquisición .....	20
Artículo IX: Donaciones .....	
Sección 1: Oficina Coordinadora .....	22
Sección 2: Procedimiento de Adquisición .....	22
Sección 3: Trámite de Adquisición .....	24
Artículo X: Disposiciones Generales .....	25
Artículo XI: Cláusula de Salvedad .....	26
Artículo XII: Cláusula de Separabilidad.....	26
Artículo XIII: Aprobación .....	26

**Departamento de Recursos Naturales y Ambientales**

**Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales  
del Departamento de Recursos Naturales y Ambientales**

**Artículo I: Título**

Este Reglamento se conocerá y podrá citarse como "Reglamento para la Adquisición de Bienes Inmuebles y Derechos Reales del Departamento de Recursos Naturales y Ambientales".

**Artículo II: Base Legal**

Este Reglamento se adopta de conformidad con lo dispuesto en la Orden Ejecutiva Núm. 4 de 20 de enero de 2004, Ley 23 de 20 de junio de 1972, según enmendada, conocida como la "Ley Orgánica del Departamento de Recursos Naturales y Ambientales", el Plan de Reorganización Núm. 4 de 9 de diciembre de 1993, según enmendado, Ley 49 de 4 de enero de 2003, según enmendada conocida como "Ley para Establecer la Política Pública sobre la Prevención de Inundaciones y Conservación de Ríos y Quebradas", Ley 150 de 4 de agosto de 1988, conocida como la "Ley del Programa de Patrimonio Natural de Puerto Rico", Ley 133 de 1 de julio de 1975, según enmendada, conocida como la "Ley de Bosques", Ley 268 de 5 de septiembre de 2003, según enmendada, conocida como la "Ley del Fondo para la Adquisición y Conservación de Terrenos en Puerto Rico, Ley Núm. 241 de 15 de agosto de 1999, según enmendada, conocida como "La Nueva Ley de Vida Silvestre de Puerto Rico" y la Ley 170 de 12 de agosto de 1988, según enmendada, conocida como "Ley de Procedimiento Administrativo Uniforme del Estado Libre Asociado de Puerto Rico".

**Artículo III: Propósito**

Este reglamento se adopta con el propósito de establecer las normas y procedimientos uniformes para la adquisición de bienes inmuebles y derechos reales del DRNA. El mismo no será interpretado como una limitación de los poderes y facultades del DRNA bajo cualquier ley o reglamento existente.

#### **Artículo IV: Definiciones**

Los siguientes términos tendrán el significado que se indica a continuación, excepto cuando del contexto se desprenda un significado distinto:

- a. **Adquisición de propiedad**- Significa adquirir bienes inmuebles que antes pertenecían a otro en cualquier forma legal, incluyendo pero sin limitarse a compra-venta, expropiación, cesión, o cualesquiera otro mecanismo permitido por ley.
- b. **ARPE**- Se refiere a la Administración de Reglamentos y Permisos del Estado Libre Asociado de Puerto Rico, creado de conformidad con las disposiciones de la Ley Núm. 76 de 24 de junio de 1975, según enmendada, conocida como la "Ley Orgánica de la Administración de Reglamentos y Permisos".
- c. **Asesor legal**- Significa un abogado-notario con licencia vigente otorgada por la Junta Examinadora de Aspirantes al Ejercicio de la Abogacía y la Notaría del ELA.
- d. **Bienes inmuebles**- Se refiere a propiedad inmueble.
- e. **Cedente**- Se refiere a la persona que cede al DRNA cualquier propiedad inmueble.
- f. **Certificación de Cesión** – Se refiere al documento preparado por la División de Bienes Inmuebles dando fe de que la cesión de propiedad inmueble al DRNA fue completada.
- g. **Cesión**- se refiere al negocio jurídico mediante el cual se transfiere cierta propiedad inmueble a favor del DRNA en forma onerosa o gratuita.
- h. **CRIM**- Se refiere al Centro de Recaudación de Ingresos Municipales creado de conformidad con las disposiciones de la Ley Núm. 80 de 30 de agosto de 1991, según enmendada, conocida como la "Ley del Centro de Recaudación de Ingresos Municipales".

- i. **Departamento de Justicia**- se refiere al Departamento de Justicia del ELA creado al amparo del Artículo IV, Sección 6 de la Constitución del ELA.
- j. **Dependencia**-se refiere a cualquier Secretaría, Área, Unidad, División u Oficina del Departamento de Recursos Naturales y Ambientales. No incluye la División de Bienes Inmuebles.
- k. **Derechos reales**- se refiere a los derechos que se adquieren sobre los bienes inmuebles que incluyen, entre otros, servidumbres, usufructos y cualquier otro derecho de propiedad inmueble. No incluye el derecho de administrar bienes inmuebles que pueda adquirir el DRNA por cualquier mecanismo legal existente.
- l. **División de Bienes Inmuebles**-Se refiere a la División de Bienes Inmuebles del Departamento de Recursos Naturales y Ambientales.
- m. **Donación**- se refiere al negocio jurídico mediante el cual se transfiere cierta propiedad inmueble, al DRNA, de forma voluntaria y gratuitamente.
- n. **Donante**- Se refiere a la persona que dona propiedad inmueble al DRNA.
- o. **DRNA**- Se refiere al Departamento de Recursos Naturales y Ambientales creado de conformidad con las disposiciones de la Ley Núm. 23 de 20 de junio de 1972, según enmendada, conocida como la "Ley Orgánica del Departamento de Recursos Naturales y Ambientales" y del Plan de Reorganización Número 4 de 9 de diciembre de 1993.
- p. **ELA**- Se refiere al Estado Libre Asociado de Puerto Rico.
- q. **Escritura**- Documento público, firmado con testigos o sin ellos por la persona o personas que lo otorgan, de todo lo cual da fe un notario público.
- r. **Estudio de título**- se refiere al estudio de la relación jurídica de la propiedad inmueble en el Registro de la Propiedad. Provee una descripción de la propiedad inmueble incluyendo las colindancias, cabida, colindantes, datos de inscripción,

titular o titulares, forma de obtención del título, gravámenes, embargos, condiciones restrictivas, documentos pendientes de calificación, y otros.

- s. **Expropiación forzosa-** se refiere al procedimiento establecido en la Ley de Expropiación Forzosa de 12 de marzo de 1903, según enmendada, mediante el cual se priva a una persona de la titularidad de un bien y un derecho a cambio de una indemnización. Se efectúa por motivo de utilidad pública.
  
- t. **Faja verde-** Se refiere a predio de terreno a ser destinado para uso público, con el interés general de conservar y mantener los cuerpos de agua, resultante del desarrollo de cualquier obra de urbanización o cualquier lotificación colindante con un río, quebrada, laguna o cualquier cuerpo de agua.
  
- u. **Informe de tasación o de valoración-** Documento preparado por un tasador en el cual se establece el valor de mercado estimado de la propiedad inmueble a una fecha específica siguiendo los principios de tasación uniformes (USPAP por sus siglas en inglés) debidamente revisado y aprobado por un tasador revisor. En casos relacionados a proyectos en los que se utilice total o parcialmente fondos federales, se considerará además, los principios de tasación uniformes para la Adquisición de Terrenos Federales (UASFLA por sus siglas en inglés) o aquellas otras guías que el Gobierno Federal de tiempo en tiempo requiera.
  
- v. **Junta de Planificación-** Se refiere a la Junta de Planificación de Puerto Rico, creada de conformidad con las disposiciones de la ley Núm. 75 de 24 de junio de 1975, según enmendada, conocida como la "Ley Orgánica de la Junta de Planificación de Puerto Rico".
  
- w. **Negociador-** se refiere al especialista adiestrado en los procesos de adquisición que representa al DRNA en el proceso de negociación con el dueño de determinada propiedad inmueble a ser adquirida por el DRNA.
  
- x. **Permuta-** Modalidad de adquisición que permite entregar un bien a cambio de otro de igual o distinta naturaleza, con un valor económico similar, sin que medie ninguna otra consideración para el pago.

- y. **Persona-** Se refiere a individuos, compañías, sociedades, asociaciones o corporaciones.
  
- z. **Propiedad inmueble-** Se refiere a aquellos bienes que no pueden moverse ni trasladarse de un lugar a otro incluyendo terrenos, edificios, caminos, construcciones de todo género y todos aquellos clasificados como tal, de acuerdo con las disposiciones de los Artículos 261 al 264 del Código Civil de Puerto Rico. Incluirá también, todo aquello que esté unido a la propiedad inmueble y que no pueda separarse sin causar deterioro. Para propósitos de este reglamento, propiedad inmueble incluirá, además, todos los derechos reales a adquirirse.
  
- aa. **Registro de la Propiedad-** se refiere al Registro de la Propiedad del Departamento de Justicia del ELA encargado de dar publicidad a las transacciones relacionadas con los bienes inmuebles.
  
- bb. **Secretario-**Se refiere al Secretario de Recursos Naturales y Ambientales o su representante autorizado.
  
- cc. **Tasador-** Se refiere a aquella persona, empleada por el DRNA o persona externa contratada por la Agencia, y autorizada por la Junta Examinadora de Evaluadores Profesionales de Bienes Raíces para llevar a cabo procesos de tasación o valoración de propiedad inmueble.
  
- dd. **Tasador revisor-** Se refiere a aquel tasador independiente distinto al tasador que prepara el informe de tasación o valoración, cuya función es evaluar el cumplimiento con los principios de tasación uniformes y los requisitos particulares del caso y certificar su aprobación o rechazar el mismo.
  
- ee. **Transferencia-** se refiere al proceso mediante el cual una entidad gubernamental transfiere el título de determinada propiedad inmueble a otra entidad gubernamental.
  
- ff. **Unidad peticionaria-** Se refiere al Secretario, funcionario, área o división del DRNA que origina el proyecto de adquisición de determinada propiedad inmueble para uso y beneficio del DRNA.

gg. **Usufructo** – Se refiere al derecho de disfrutar de una cosa cuya propiedad es ajena, percibiendo todos los productos, utilidades y ventajas que aquella produzca, con la obligación de conservar su forma y sustancia, a no ser que el título de su constitución o la ley autoricen otra cosa.

hh. **Valor en el mercado**- Se refiere al precio mayor expresado en términos de dinero que un comprador estaría dispuesto a pagar por una propiedad inmueble y por el cual el vendedor estaría dispuesto a vender si la propiedad inmueble ha sido expuesta a un mercado libre por tiempo razonable, siempre que, tanto el comprador como el vendedor, estén bien informados sobre los usos y fines a que esta propiedad inmueble puede dedicarse de inmediato y en un futuro cercano y que ambos actúen voluntariamente y no bajo presión o fuerza.

#### **Artículo V: Criterios para la Adquisición de Propiedad Inmueble**

La adquisición de propiedad inmueble por parte del DRNA estará definida a base de lo dispuesto en la Orden Ejecutiva Núm. 4 de 20 de enero de 2004, Ley 23 de 20 de junio de 1972, según enmendada, conocida como la "Ley Orgánica del Departamento de Recursos Naturales y Ambientales", el Plan de Reorganización Núm. 4 de 9 de diciembre de 1993, según enmendado, Ley 49 de 4 de enero de 2003, según enmendada conocida como "Ley para Establecer la Política Pública sobre la Prevención de Inundaciones y Conservación de Ríos y Quebradas", Ley 150 de 4 de agosto de 1988, conocida como la "Ley del Programa de Patrimonio Natural de Puerto Rico", Ley 133 de 1 de julio de 1975, según enmendada, conocida como la "Ley de Bosques", Ley 268 de 5 de septiembre de 2003, según enmendada, conocida como la "Ley del Fondo para la Adquisición y Conservación de Terrenos en Puerto Rico, Ley Núm. 241 de 15 de agosto de 1999, según enmendada, conocida como "La Nueva Ley de Vida Silvestre de Puerto Rico" y leyes, órdenes ejecutivas, resoluciones conjuntas y otros que de tiempo en tiempo se emitan ordenando o requiriendo acción por parte del DRNA.

Los criterios establecidos en los estatutos antes mencionados, incluyen, pero no se limitan a: prevención de inundaciones, conservación de ríos y quebradas, dedicación a uso público, protección de terrenos de alto valor ecológico, protección y conservación de especies de vida silvestre nativas y migratorias, conservación forestal y otros.

#### **Artículo VI: Administración**

La División de Bienes Inmuebles, adscrita a la Secretaría Auxiliar de Asuntos Gerenciales del DRNA, será responsable de velar por el cumplimiento con las disposiciones de este Reglamento.

#### **Artículo VII: Procedimiento para la Adquisición de Propiedad Inmueble**

##### **Sección 1: Proyecto de Adquisición**

La unidad peticionaria será responsable de preparar un Proyecto de Adquisición que incluirá, entre otras cosas, sin limitarse, lo siguiente:

- a) Descripción del proyecto relacionado.
- b) Beneficios y justificación legal de la adquisición.
- c) Nombre y dirección física y postal de todas las partes con interés en la propiedad inmueble a adquirirse.
- d) Copia certificada de la resolución emitida por la Junta de Planificación que aprueba la consulta de uso y ubicación, o en su defecto certificación que evidencie la exención otorgada al DRNA para presentar una consulta de ubicación, si aplica.
- e) Copia certificada de la resolución emitida por la Junta de Planificación que aprueba la consulta de transacción pública, o en su defecto certificación que evidencie la exención otorgada al DRNA para presentar una consulta de transacción pública, si aplica.
- f) Copia certificada de la resolución emitida por ARPE autorizando la adquisición y segregación de la propiedad inmueble a favor del DRNA, si aplica.

- g) Plano de mensura de la propiedad inmueble objeto de adquisición preparado por un profesional licenciado y autorizado a ejercer la profesión de agrimensura en Puerto Rico y miembro activo del Colegio de Ingenieros y Agrimensores de Puerto Rico. En casos de estructuras existentes, se pueden requerir los planos esquemáticos o conceptuales, entre otros, si aplica.
- h) Cualquier otro plano que sea necesario de acuerdo a las características particulares de la propiedad inmueble a adquirirse preparado por profesionales licenciados y autorizados, de acuerdo a las leyes existentes.
- i) Certificación de la División de Finanzas sobre la disponibilidad de fondos para llevar a cabo la adquisición cuando la transacción requiera la erogación de fondos públicos.
- j) En casos de permuta, la unidad peticionaria deberá informar, a la División de Bienes Inmuebles, como parte del proyecto de adquisición, que la transacción envuelve una permuta. La unidad peticionaria proveerá una descripción clara de la propiedad a ser entregada, incluyendo los datos registrales de la misma.
- k) Tres (3) originales del informe de valoración o tasación de la propiedad inmueble a adquirirse con no más de seis (6) meses de expedida.
- l) Tres (3) originales del informe preparado por el tasador revisor en relación al informe de valoración o tasación mencionado en el inciso (k) anterior, con no más de seis (6) meses de expedido.
- m) Carta o documento oficial del Secretario autorizando la adquisición.
- n) Cualquier otro documento que sea requerido por la División de Bienes Inmuebles considerando las características particulares de cada caso.

## Sección 2: Trámite de Adquisición

El trámite de adquisición se llevará a cabo a través de la División de Bienes Inmuebles como sigue:

- a) El proyecto de adquisición será presentado por la unidad peticionaria para evaluación de la División de Bienes Inmuebles.
- b) La División de Bienes Inmuebles evaluará el contenido del proyecto de adquisición en un plazo de quince (15) días laborables, luego de entregado por la unidad peticionaria.
- c) La División de Bienes Inmuebles vendrá obligada a notificar a la unidad peticionaria en un plazo de cinco (5) días, luego de completada la evaluación, si el proyecto de adquisición incluye toda la documentación requerida y/o solicitar aquella otra información adicional que entienda necesaria para continuar con el trámite de adquisición. No obstante, lo anterior no restará autoridad a la División de Bienes Inmuebles de solicitar documentos adicionales que de tiempo en tiempo y por las características particulares de cada caso, sean necesarios para completar los procesos delegados en dicha División.
- d) En aquellos casos donde la División de Bienes Inmuebles, solicite información adicional, se procederá de acuerdo a los incisos a, b y c anteriores.
- e) Una vez se determine que el proyecto de adquisición incluye toda la documentación solicitada, la División de Bienes Inmuebles procederá a tramitar inmediatamente la adquisición ya sea por compra-venta negociada o por el mecanismo de expropiación forzosa, procurando obtener de forma actualizada los siguientes documentos:
  - i. Certificación registral de la propiedad inmueble a adquirirse. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.

- ii. Certificación de Deuda Contributiva de la propiedad inmueble objeto de adquisición emitida por el CRIM. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.
  - iii. Certificación de Valores Contributivos emitida por el CRIM. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.
  - iv. Requerir al dueño registral de la propiedad inmueble Certificación de Deuda expedida por el Departamento de Hacienda del ELA. Esta certificación no podrá tener más de seis (6) meses de emitida.
  - v. Cualquier otro documento necesario para la otorgación de la escritura de compraventa, cuando aplique.
- f) Una vez completada la adquisición de determinada propiedad inmueble o derecho real, la División de Bienes Inmuebles informará inmediatamente el resultado, a la unidad petitionaria y aquella (s) otras dependencias interesadas, para la acción correspondiente, si alguna.
- g) La División de Bienes Inmuebles deberá asegurar el cumplimiento con todas las leyes y reglamentos existentes, así como con los requerimientos de programas federales, si aplican.

### **Sección 3: Informe de Tasación o de Valoración**

Los informes de tasación o de valoración podrán ser preparados por tasadores internos o externos contratados para llevar a cabo dicho proceso, según la necesidad del DRNA. Los procesos de tasación se regirán por las siguientes normas o guías:

- a) Todos los tasadores externos deberán estar autorizados para ejercer su profesión por la Junta Examinadora de Evaluadores de Puerto Rico, acreditando dicha autorización con la debida licencia vigente otorgada por la antes mencionada Junta.

- b) Todos los informes de tasación o valoración se prepararán de acuerdo al "Uniform Standards of Professional Appraisal Practice", el "Uniform Appraisal Standards for Federal Land Acquisitions" o aquellas guías o fuentes aprobadas por el Instituto Americano de Tasadores de Bienes Raíces (conocido en inglés como "American Institute of Real Estate Appraisers").
- c) Todo contrato de servicios profesionales de tasación o valoración incluirán una cláusula donde se requiera la utilización de los pronunciamientos mencionados en el inciso (b) anterior.
- d) El DRNA podrá, en caso de ser necesario, solicitar los servicios de la Administración de Terrenos del ELA o el CRIM para realizar informes de tasación o valoración de aquellos bienes inmuebles que van a ser adquiridos.
- e) Los informes de tasación o valoración incluirán como mínimo lo siguiente: el justo valor de mercado de la propiedad inmueble (incluyendo los métodos de valoración utilizados), una descripción clara de la propiedad inmueble incluyendo cabida y gravámenes, identificación de las estructuras ubicadas en el inmueble, la fecha de preparación del informe, descripción de las ventas comparables, la firma del tasador y cualquier otra información pertinente que sustente las conclusiones del tasador.
- f) Todo informe de tasación o valoración deberá someterse ante un tasador revisor para su eventual aprobación o rechazo. Este evaluará dicho informe y certificará por escrito su recomendación de aprobación para que sea oficial, o de rechazar el mismo, si ese fuera el caso. El tasador revisor podrá ser un empleado del DRNA o un tasador externo contratado para esos propósitos, así como del CRIM.
- g) En aquellos casos donde el tasador revisor rechace un informe de tasación, el tasador revisor deberá conciliar sus diferencias de valoración con el tasador que llevó a cabo la tasación o valorización original de la propiedad inmueble a adquirirse.
- h) El informe preparado por el tasador revisor indicará los hallazgos que ha realizado en el informe de tasación o valoración examinado, más los elementos no

contemplados en la preparación del informe original, incluyendo los fundamentos específicos por el cual disiente o no aprueba dicho informe original.

- i) El informe preparado por el tasador revisor incluirá además, cualquier información, documentación o procedimiento que el Instituto Americano de Tasadores de Bienes Raíces (conocido en inglés como "American Institute of Real Estate Appraisers") recomiende y no haya sido contemplado en el informe original.
- j) Si el tasador revisor y el tasador que preparó el informe original no pueden conciliar sus diferencias en valor, dicho informe deberá someterse ante el Secretario para que nombre un tasador que le asesore para reconciliar las diferencias y se tome una decisión final.
- k) En el caso de tasaciones o informes de valoración preparados para proyectos con fondos otorgados por otras entidades estatales o federales, la preparación y aprobación final de los informes de valoración o tasación estará sujeta a los requerimientos específicos de cada entidad.

#### **Sección 4: Adquisición mediante compra directa**

El DRNA llevará a cabo todo el esfuerzo necesario para lograr la adquisición de la propiedad inmueble interesada a través de la compra directa observando en todo momento lo siguiente:

- a) El DRNA, por medio de la División de Bienes Inmuebles, no podrá hacer ofertas sobre la propiedad inmueble, a los dueños de ésta, hasta tanto se hayan completado los procesos relacionados con el Trámite de Adquisición.
- b) Una vez completado el trámite de adquisición, el negociador, nombrado por la División de Bienes Inmuebles, se reunirá con los dueños de la propiedad inmueble, agentes o sus representantes autorizados, mediante escritura de poder, a los fines de acordar el precio de venta de la propiedad inmueble a adquirirse.
- c) La oferta de compra no podrá exceder el valor máximo determinado de acuerdo a la tasación revisada y será sometida por escrito a la última dirección conocida

otorgándole al propietario vendedor un plazo de diez (10) días laborables, a partir de la fecha de recibo de la Carta de Oferta, para aceptar la misma.

- d) Si al cabo de diez (10) días laborables, luego de entregada la carta de oferta, no se recibe contestación por escrito del propietario vendedor, se entenderá como un rechazo de la oferta de compra, y se procederá de acuerdo a la Sección 5 de éste Artículo.
- e) Si el propietario vendedor no estuviera de acuerdo con la oferta de compra del DRNA, deberá informarlo por escrito a la División de Bienes Inmuebles en el término establecido y podrá entonces presentar una contraoferta.
- f) La contraoferta deberá estar sustentada en otro informe de tasación o valoración que reúna fundamentalmente los criterios utilizados en el informe de tasación o valoración preparado por el DRNA e indicando los fundamentos sobre los cuales la cantidad a pagar por el DRNA debe ser mayor a la establecida en el informe de tasación o valoración preparado por el DRNA.
- g) El DRNA someterá ante el tasador revisor el informe de valoración o tasación preparado por el vendedor para evaluación.
- h) El tasador revisor preparará un informe escrito estableciendo la aceptación o rechazo del informe de tasación o valoración presentado por la parte vendedora y fundamentando sus conclusiones.
- i) El DRNA informará por escrito al propietario vendedor la determinación final de la revisión de la tasación o informe de valoración.
- j) Si al cabo de diez (10) días laborables, luego del recibo de la notificación de la determinación final, no se recibe contestación por escrito del propietario vendedor, se entenderá como un rechazo de la oferta de compra, y se procederá de acuerdo a la Sección 5 de éste Artículo.

- k) De acordarse un precio de venta, la División de Bienes Inmuebles tramitará la preparación de una escritura de compraventa, la cual deberá ser otorgada ante un notario con licencia vigente emitida por la Junta Examinadora de Aspirantes al Ejercicio de la Abogacía y Notaría del ELA. Los honorarios de la notaría, si algunos, serán acordados entre las partes de acuerdo a las leyes y reglamentos aplicables.
- l) El DRNA podrá llegar a cualesquiera términos de pago permitidos en ley, según se acuerde entre las partes.
- m) La División de Bienes Inmuebles deberá asegurarse de que la escritura de compraventa otorgada a favor o para beneficio del DRNA, sea presentada en el Registro de la Propiedad correspondiente en un término de cinco (5) días laborables, luego de la otorgación de la misma.
- n) La División de Bienes Inmuebles deberá asegurarse de que se presente ante el CRIM una solicitud de cambio de dueño del bien inmueble adquirido, siguiendo la reglamentación vigente.
- o) Cuando la adquisición se lleve a cabo mediante permuta, se considerará lo dispuesto en la Sección 6 de este Artículo.
- p) En aquellos casos donde no se pueda completar el proceso de compra venta por negociación, el DRNA procederá a adquirir, por medio de la División de Bienes Inmuebles, la propiedad inmueble de interés utilizando el mecanismo de expropiación dispuesto en la Sección 5 de éste Artículo.

#### **Sección 5: Adquisición mediante expropiación**

- a) El procedimiento de expropiación será aplicado en aquellos casos donde, luego de agotar los esfuerzos para adquirir la propiedad inmueble interesada por el DRNA a través de un proceso de negociación, no se logren acuerdos satisfactorios con la parte vendedora. El negociador por parte del DRNA vendrá obligado a explicar mediante memorando al Director de la División de Bienes Inmuebles, todas las gestiones, reuniones y esfuerzos realizados con el dueño para adquirir por

negociación la propiedad inmueble requerida, antes de proceder con la expropiación forzosa.

- b) El procedimiento de expropiación se registrará de acuerdo a las disposiciones de la Ley de Expropiación Forzosa de 12 de marzo de 1903, según enmendada.
- c) En aquellos casos donde el DRNA no pueda iniciar el trámite de expropiación forzosa, la División de Bienes Inmuebles gestionará éste trámite con otra Agencia o entidad del ELA que pueda llevar a cabo el procedimiento de expropiación forzosa en representación del DRNA.
- d) Cuando aplique lo dispuesto en el inciso anterior, el DRNA deberá considerar, en primera instancia, la utilización del Departamento de Justicia del ELA.
- e) El DRNA, a través de la División de Bienes Inmuebles, tendrá la facultad de contratar con otra entidad gubernamental distinta al Departamento de Justicia, cuando entienda que es de mayor beneficio para el DRNA. El expediente de cada caso deberá incluir un memorando justificando dicha acción por parte del Director de la División de Bienes Inmuebles.
- f) La División de Bienes Inmuebles se asegurará que todo acuerdo firmado entre el DRNA y la Agencia Expropiante del ELA establezca claramente que los procesos de expropiación contratados se llevarán a cabo a solicitud del DRNA y para uso y beneficio del DRNA.
- g) Cuando existan acuerdos de expropiación con otras Agencias o entidades del ELA, será requisito que los mismos incluyan una cláusula donde:
  - i. la entidad contratada se obligue a solicitar al Tribunal la inscripción de la propiedad inmueble expropiada a nombre del DRNA, o en su defecto;
  - ii. la entidad contratada reconozca que una vez completado el trámite de expropiación se llevará a cabo inmediatamente una cesión de la

propiedad inmueble al DRNA cuyos costos serán sufragados por el DRNA.

- h) Los procedimientos de expropiación a través del Departamento de Justicia u otras Agencias o entidades del ELA se registrarán por las leyes orgánicas y los reglamentos de esas entidades.
- i) La División de Bienes Inmuebles deberá asegurarse de que se presente ante el CRIM una solicitud de cambio de dueño del bien inmueble adquirido, siguiendo la reglamentación vigente.

#### **Sección 6: Permutas**

- a) La permuta, según definida en este Reglamento, solo podrá llevarse a cabo cuando el resultado de la misma redunde en un beneficio para el DRNA igual o mayor al beneficio generado por la propiedad inmueble a intercambiarse. Lo anterior, considerando la misión y los objetivos del DRNA de acuerdo a las distintas leyes y reglamentos existentes.
- b) Para determinar el valor de la propiedad inmueble a recibir, se procederá a preparar un informe de tasación o valoración, de acuerdo a lo dispuesto en la Sección 3 del Artículo VII de este Reglamento.

### **Artículo VIII: Adquisición de Propiedad Inmueble y Derechos Reales Mediante Cesión**

#### **Sección 1: Oficina Coordinadora**

Los trámites de adquisición de propiedad inmueble y derechos reales a través del proceso de cesión, serán coordinados por la División de Bienes Inmuebles.

## Sección 2: Documentos Requeridos

El cedente presentará ante la División de Bienes Inmuebles los siguientes documentos relacionados a la propiedad inmueble sujeta a cesión para evaluación:

- a) Resolución de ARPE / Núm. / Fecha, si aplica
- b) Copia del plano de la propiedad inmueble a ser cedida que incluya la ubicación de la propiedad inmueble a ceder en coordenadas Lambert o cualquier otro método de localización que de tiempo en tiempo la División de Bienes Inmuebles establezca, si aplica.
- c) Certificación Registral o Estudio de Título con no más de seis (6) meses de expedida antes de la fecha de la otorgación de la escritura.
- d) Informe de Tasación o Valoración de la propiedad inmueble a ser cedida con no más de seis (6) meses de expedida.
- e) Certificación indicando que la propiedad inmueble a ser cedida está libre de cargas y gravámenes hipotecarios y ambientales, entendiéndose que el DRNA no aceptará la cesión de propiedad inmueble gravando al ELA, si aplica.
- f) Certificación de Deuda Contributiva de la propiedad inmueble objeto de cesión emitida por el CRIM. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción, si aplica.
- g) Borrador de escritura de cesión.
- h) Cualquier otro documento que la División de Bienes Inmuebles entienda necesario para una justa evaluación de la cesión.

### Sección 3: Procedimiento de Adquisición

- a) La División de Bienes Inmuebles llevará a cabo una revisión de los documentos requeridos para determinar cumplimiento con lo dispuesto en la Sección 2 de este Artículo. Documentación incompleta será devuelta al cedente.
- b) Una vez recibida toda la documentación requerida, la División de Bienes Inmuebles procederá a evaluar la propiedad inmueble sujeta a la cesión de acuerdo con las disposiciones de ley y los reglamentos aplicables.
- c) La División de Bienes Inmuebles identificará aquellas dependencias con interés en el asunto y solicitará comentarios y recomendaciones que permitan una evaluación justa de la cesión propuesta. De ser necesario, podrá utilizar recursos externos sujeto al cumplimiento con leyes y reglamentos aplicables para la contratación de los mismos.
- d) Cualquier solicitud de comentario o recomendación deberá ser atendido por la dependencia referida en un término que no excederá de cinco (5) días, luego de recibida la solicitud. La División de Bienes Inmuebles tendrá la facultad de otorgar términos adicionales de existir causa razonable. Los comentarios y recomendaciones recibidas formarán parte del informe que será rendido por la División de Bienes Inmuebles al Secretario.
- e) La División de Bienes Inmuebles someterá al Secretario un informe detallando las características particulares de la propiedad inmueble sujeta a cesión, la base legal para aceptar la misma, los comentarios y recomendaciones de cada dependencia consultada, si alguna, y la recomendación final de la División de Bienes Inmuebles.
- f) La determinación final sobre aceptar o no la cesión será del Secretario.
- g) Si el Secretario determina que no procede aceptar la cesión, la División de Bienes Inmuebles informará al cedente en un término que no excederá cinco (5) días, luego de ser notificado por el Secretario, indicando las razones por las cuales no fue aceptada la cesión.

- h) Si el Secretario determina aceptar la cesión, la División de Bienes Inmuebles notificará tal aceptación por escrito al cedente requiriendo cualesquiera otra documentación o acción necesaria para completar el proceso de adquisición.
- i) La cesión de la propiedad inmueble se llevará a cabo mediante la otorgación de escritura pública en la cual el Secretario acepte la cesión a nombre del DRNA.
- j) Las costas, gastos y honorarios de la cesión y su respectiva presentación ante el Registro de la Propiedad correspondiente, si alguno, serán acordados entre las partes de acuerdo a las leyes y reglamentos vigentes.
- k) El notario otorgante vendrá obligado a presentar ante la División de Bienes Inmuebles, en un término no mayor de cinco (5) días, luego de otorgada, copia certificada de la escritura de cesión y la minuta de asiento de presentación que certifica la presentación de la escritura en el Registro de la Propiedad correspondiente.
- l) Una vez cumplido lo establecido en el inciso (k) anterior, la División de Bienes Inmuebles procederá a emitir un Certificación de Cesión donde se establece que la cesión fue completada a satisfacción del DRNA.
- m) La División de Bienes Inmuebles deberá asegurarse de que se presente ante el CRIM una solicitud de cambio de dueño del bien inmueble adquirido, siguiendo la reglamentación vigente, si aplica.
- n) Una vez completada la cesión de determinada propiedad inmueble o derecho real, la División de Bienes Inmuebles informará inmediatamente el resultado, a las distintas dependencias, para la acción correspondiente.

## **Artículo IX: Donaciones**

### **Sección 1: Oficina Coordinadora**

La División de Bienes Inmuebles será la encargada de coordinar los procesos dirigidos a obtener propiedades inmuebles a través de donaciones.

### **Sección 2: Procedimiento de Adquisición**

- a) El donante deberá presentar ante la División de Bienes Inmuebles, y por escrito, su intención de donar determinada propiedad inmueble estableciendo las restricciones, si alguna, contempladas como parte de la donación. La comunicación deberá incluir una descripción clara de la propiedad inmueble a donar y una certificación sobre la capacidad legal del donante para donar la propiedad inmueble sujeta a donación.
- b) La División de Bienes Inmuebles llevará a cabo una evaluación de la propiedad inmueble sujeta a la donación para asegurarse que los usos que el DRNA podrá darle a la misma están de acuerdo con los fines encomendados al DRNA por su ley orgánica y cualesquiera otras leyes, reglamentos, resoluciones u órdenes ejecutivas relacionadas.
- c) El donante deberá presentar a la División de Bienes Inmuebles la documentación que la división le requiera que podría incluir, entre otros, prueba de titularidad, certificación de deuda, planos y otros documentos necesarios para una evaluación justa de las características cuantitativas y cualitativas de la propiedad sujeta a donación.
- d) Cuando la intención de donar esté sujeta a condiciones específicas, la División de Bienes Inmuebles deberá considerar la capacidad del DRNA para cumplir con los requerimientos del donante.
- e) La División de Bienes Inmuebles podrá solicitar asesoramiento y recomendaciones a las distintas dependencias para garantizar una evaluación adecuada de la propiedad inmueble sujeta a la donación.

- f) Las recomendaciones serán informadas por escrito a la División de Bienes Inmuebles en un término que no excederá de cinco (5) días, luego de recibida la solicitud. La División de Bienes Inmuebles tendrá la facultad de otorgar términos adicionales, de existir causa razonable. Las recomendaciones recibidas formarán parte del informe que posteriormente será rendido por la División de Bienes Inmuebles al Secretario.
- g) La División de Bienes Inmuebles someterá al Secretario un informe detallando las características particulares de la propiedad inmueble sujeta a donación, las recomendaciones de cada dependencia consultada, si alguna, el impacto presupuestario futuro de la adquisición y su recomendación final.
- h) La determinación sobre aceptar o no la propiedad inmueble sujeta a donación será del Secretario.
- i) Si el Secretario determina que no procede aceptar la donación, le notificará al donante, a través de la División de Bienes Inmuebles, y por escrito, las razones por las cuales no aceptó la donación.
- j) Si el Secretario determina aceptar la donación, requerirá a la División de Bienes Inmuebles que proceda a solicitar al Secretario de Hacienda o su representante autorizado, la autorización para aceptar el bien inmueble sujeto a la donación, siguiendo las disposiciones reglamentarias emitidas por el Secretario de Hacienda y vigentes a la fecha de la donación.
- k) Si el Secretario de Hacienda no autoriza la aceptación de la donación, el Secretario le notificará al donante, a través de la División de Bienes Inmuebles, y por escrito, las razones por las cuales no se acepta la donación.
- l) Si el Secretario de Hacienda autoriza la aceptación de la propiedad inmueble que se interesa donar al DRNA, la División de Bienes Inmuebles procederá con el trámite de adquisición.

### Sección 3: Trámite de Adquisición

- a) Una vez el Secretario determine aceptar la donación, y reciba la autorización del Secretario de Hacienda, personal de la División de Bienes Inmuebles se reunirá con el donante para establecer por escrito los términos para la preparación de una escritura de donación.
- b) La División de Bienes Inmuebles tramitará los siguientes documentos necesarios para la otorgación de la escritura de donación:
  - i. Certificación registral de la propiedad inmueble sujeta a donación. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.
  - ii. Certificación de Deuda Contributiva de la propiedad inmueble sujeta a donación. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.
  - iii. Certificación de Valores Contributivos emitida por el CRIM. Esta certificación no deberá tener más de seis (6) meses de expedida al momento de lograrse la transacción.
  - iv. Informe de Tasación o Valoración de la propiedad inmueble a ser donada con no más de seis (6) meses de expedida.
  - v. Cualquier otro documento necesario para la otorgación de la escritura de donación.
- c) Una vez completada la evaluación de la documentación descrita en el inciso b, la División de Bienes Inmuebles tramitará la preparación de una escritura de donación, la cual deberá ser otorgada ante un notario con licencia vigente otorgada por la Junta Examinadora de Aspirantes al Ejercicio de la Abogacía y Notaría del ELA. Los honorarios de la notaría, si algunos, serán acordados entre las partes de acuerdo a las leyes y reglamentos aplicables.

- d) El notario deberá tener, a la fecha de otorgación de la escritura, toda la documentación necesaria para presentar la escritura de donación en el Registro de la Propiedad inmueble y proveer copia certificada de la escritura de donación al momento de la otorgación de la misma.
- e) Los trámites de presentación de la escritura de donación serán responsabilidad exclusiva del DRNA. La División de Bienes Inmuebles deberá, en un término de cinco (5) días laborables a partir de la otorgación de la misma, presentar la misma en el Registro de la Propiedad correspondiente.
- f) La División de Bienes Inmuebles deberá asegurarse de que se presente ante el CRIM una solicitud de cambio de dueño del bien inmueble adquirido, siguiendo la reglamentación vigente.
- g) Una vez completada la donación de determinada propiedad inmueble o derecho real, la División de Bienes Inmuebles informará inmediatamente el resultado, a las distintas dependencias, para la acción correspondiente.

#### **Artículo X: Disposiciones Generales**

- a) Toda persona natural o jurídica que necesite presentar, ante cualquier dependencia del DRNA, prueba de haber vendido, cedido, permutado, donado o de otra manera traspasado el título de cualquier propiedad inmueble o derecho real a nombre o en beneficio del DRNA deberá solicitar a la División de Bienes Inmuebles, de la forma y manera que la División de Bienes Inmuebles determine, una certificación a tales efectos.
- b) Ninguna dependencia del DRNA aceptará como evidencia o prueba de una transacción (de venta, cesión, permuta, donación o de otra manera traspaso de título de cualquier propiedad inmueble o derecho real a nombre o en beneficio del DRNA) documento de cualquier tipo o naturaleza a menos que esté acompañado de una Certificación Original provista por la División de Bienes Inmuebles afirmando o asegurando la misma.

- c) Las disposiciones de este Reglamento no aplicarán a la transferencia de propiedad inmueble con otras entidades gubernamentales. La aplicación de una o más disposiciones de este Reglamento a transferencias de propiedad inmueble con otras entidades gubernamentales, será discrecional del Secretario.

**Artículo XI: Cláusula de Salvedad**

Cualquier asunto no cubierto por este Reglamento será resuelto por el Secretario de conformidad con leyes, reglamentos, órdenes ejecutivas y resoluciones existentes y en todo aquello que no esté previsto en las mismas, se regirá por las normas de sana administración pública.

**Artículo XII: Cláusula de Separabilidad**

Si cualquier palabra, inciso, o artículo o parte del presente Reglamento fuese declarado inconstitucional o nulo por un tribunal competente, tal declaración no afectará, menoscabará ni invalidará las restantes disposiciones y partes de este Reglamento, sino que su efecto se limitará a la palabra, inciso, oración, artículo o parte específica en algún caso y no se entenderá que afecta o perjudica en sentido alguno su aplicación o validez en cualquier otro caso.

**Artículo XIII: Aprobación**

Este Reglamento comenzará a regir inmediatamente luego de su aprobación y radicación en el Departamento de Estado y la Biblioteca Legislativa, a tenor con las disposiciones de la Ley 170, "Ley de Procedimiento Administrativo Uniforme", según enmendada.

En San Juan, Puerto Rico hoy 22 de noviembre de 2008.



Javier Vélez Arocho  
Secretario

## **Appendix Q: Regulation for Real Estate Acquisition**

### **Department of Natural Resources and Environmental**

#### **Real Estate Division**

### **Regulations for the Acquisition of Real Estate and Real Rights**

#### **Department of Natural Resources and the Environment**

##### Article I: Title

This Regulation shall be known and may be cited as "Regulations for the Acquisition of Real Estate and Rights of the Department of Environment and Natural Resources.

##### Article II: Legal Base

This regulation is adopted pursuant to the provisions of Executive Order No. 4 of 20 January 2004, Law 23 of 20 June 1972, as amended, known as the Basic Law of the Department of Environment and Natural Resources, Reorganization Plan No. 4 of 9 December 1993, as amended, Law 49 of 4 January 2003, as amended, known as "An Act to Establish Public Policy on Flood and Conservation of rivers and streams" Law 150 of 4 August 1988, as amended, known as the "Act Natural Heritage Program of Puerto Rico, Law 133 of 1 July 1975, as amended, known as the" Forest Law ", Law 268 5 September 2003, as amended, known as the "Law of the Fund for Land Acquisition and Conservation in Puerto Rico, Law No. 241 of August 15, 1999, as amended, known as' The New Law of Life Silvestre de Puerto Rico "and the Law 170 of 12 August 1988, as amended, known as" Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico. "

##### Article III: Purpose

This regulation is adopted for the purpose of establishing rules and procedures for the acquisition of property and real rights of the DNER. The same shall not be construed as limiting the powers and authority of the DNER under any existing law or regulation. □ □

##### Article V: Criteria for the Acquisition of Real Property

The acquisition of real property by the DNER will be determined from the provisions of Executive Order No. 4 of 20 January 2004, Law 23 of 20 June 1972, as amended, known as the Basic Law Department Environment and Natural Resources, Reorganization Plan No. 4 of 9 December 1993, as amended, Law 49 of 4 January 2003, as amended, known as "An Act to Establish Public Policy on Flood and Conservation of rivers and streams", Law 150 of 4 August, 1988, as amended, known as the "Act Natural Heritage Program of Puerto Rico, Law 133 of 1

July 1975, as amended, known as the " Forest Law ", Law 268 of September 5, 2003 , as amended, known as the "Law of the Fund for Land Acquisition and Conservation in Puerto Rico, Law No. 241 of August 15, 1999, as amended, known as' The New Wildlife Act of Puerto Rico" and Law 170 of 12 August 1988, as amended, known as "Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico" and laws, executive orders, joint resolutions and others from time to time be issued ordering or requiring action by the DNER.

#### Article VI: Administration

The Real Estate Division, attached to the Secretary Assistant DNER Management Issues, will be responsible for ensuring compliance with the provisions of this Regulation.

#### Article VII: Procedures for the Acquisition of Real Property

##### Section 1: Proposed Acquisition

The requesting unit is responsible for preparing a Draft Acquisition including, inter alia, without limitation, the following:

Description of project related.

Benefits and legal justification for the acquisition.

Name and physical and mailing address of all parties with an interest in real property purchased.

Certified copy of the resolution issued by the Planning Board approving the use and location consulting, certification or, failing that evidences the exemption granted to the DNER to submit a query location.

Certified copy of the resolution issued by RPA authorizing the acquisition and segregation of land ownership in favor of the DNER.

Plan of measurement of the real property to be purchased, prepared by a licensed and authorized to practice surveying in Puerto Rico and active member of the College of Engineers and Surveyors of Puerto Rico. In cases of existing structures, may require plans schematic or conceptual, among others.

Any other plan which is necessary, according to the particular characteristics of the real property to be purchased, and prepared by licensed professionals authorized under existing laws.

Certification of the Division of Finance on the availability of funds to carry out the acquisition when the transaction requires the expenditure of public funds.

In cases of exchange, the requesting unit should inform, at the Division of Real Property, as

part of the purchase that the transaction involves a swap. The requesting unit will provide a clear description of the property to be delivered, including the registration data of the same.

Three (3) original appraisal report or appraisal of real property purchased.

Three (3) copies of the report prepared by the appraiser reviewer in relation to the valuation or appraisal report mentioned in subsection (j) above.

Letter or official document of the Secretary authorizing the acquisition.

Any other documents required by the Real Estate Division considering the characteristics of each case.

## Section 2: Step Acquisition

The procurement process will be conducted through the Division of Real Estate as follows:

The proposed acquisition will be submitted by the requesting unit for evaluation of the Division of Real Estate.

The Real Estate Division will evaluate the contents of the proposed acquisition within fifteen (15) days after delivery by the requesting unit.

The Division of Real Estate shall be obliged to notify the requesting unit within five (5) days after completing the assessment, if the proposed acquisition is feasible and includes all required documentation and / or request additional information that it deems necessary to carry out the procurement action. However, this does not subtract authority Real Estate Division to request additional documents from time to time and the characteristics of each case, necessary to complete the process in Division delegates.

Once it is determined that the proposed acquisition is feasible and includes all required documentation, the Division of Real Estate shall examine immediately the acquisition either by negotiated purchase and sale, exchange or expropriation mechanism by seeking to shape updated the following documents:

Certification registration of real property purchased. This certification should not exceed six (6) months from issued achieved when the transaction.

Tax Debt Certification for real property acquisition order issued by the CRIM. This certification should not exceed six (6) months from issued achieved when the transaction.

Certification issued by the tax amount CRIM. This certification should not exceed six (6) months from issued achieved when the transaction.

Study of title to real property purchased, which should not exceed thirty (30) days issued achieved when the transaction.

Require the owner of the immovable property registration certificate and Debt issued by the Commonwealth Department of Finance. This certification may not take more than six (6) months of broadcast.

The Real Estate Division shall ensure compliance with all applicable laws and regulations and the requirements of federal programs, if applicable.

### Section 3: Appraisal Report or Valuation

The appraisal reports or valuation may be prepared by internal or external appraisers hired to carry out this process, as required DNER. Assessment processes are governed by the following rules or guidelines:

All external appraisers must be authorized to practice by the Board of Examiners of Assessors of Puerto Rico, by proving that with proper authorization valid license issued by the aforementioned Board.

All appraisal reports or valuation prepared in accordance the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions "or those guides or sources approved by the American Institute of Real Estate Appraisers (known in English as "American Institute of Real Estate Appraisers").

Any contract for professional services of appraisal or valuation included a clause that requires the use of the statements mentioned in subsection (b).

The DNER may, if necessary, seek the services of the Commonwealth Land Administration or the crime for appraisal or valuation reports of those real estate that will be acquired.

The appraisal or valuation reports include at least the following: the fair market value of real property (including the valuation methods used), a clear description of the real property including room and taxes, identification of the structures located in the building , date of report preparation, description of comparable sales, the appraiser's signature and any other relevant information that supports the conclusions of the appraiser.

Any appraisal or valuation report shall be submitted to an appraiser reviewer for eventual approval or rejection in writing through a Memorandum of review. The reviewing appraiser may be an employee of the DNER or an external evaluator hired for such purposes, and the CRIM .

In cases where the appraiser reviewer rejects an appraisal report, the reviewer appraiser must reconcile their differences in valuation with the assessor who conducted the original appraisal or valuation of real property purchased.

The report prepared by the reviewer appraiser's findings indicate it has made in the appraisal report or appraisal review, plus the elements listed in preparing the original report, including specific grounds for which disagrees or not approved the original report.

The report prepared by the appraiser reviewer also include any information, documentation or procedure that the American Institute of Real Estate Appraisers recommended and has not been contemplated in the original report.

If the reviewer appraiser and the appraiser who prepared the original report can not reconcile their differences in value, the report shall be submitted to the Secretary of DNER to appoint an appraiser to advise him to reconcile differences.

For appraisals or valuation reports prepared for projects with funds granted by state or federal entities, preparation and final approval of the appraisal reports or valuation is subject to the specific requirements of each entity.

#### Section 4: Procurement through direct purchase

The DNER will perform all necessary efforts to ensure the acquisition of real property interest through direct purchase at all times observing the following:

The DNER, through the Division of Real Estate, you can not make offers on real estate, owners of it, until you have completed the processes related to procurement activities.

Upon completion of the acquisition process, the negotiator appointed by the Real Estate Division, will meet with the owners of real estate, agents or persons authorized by deed of power for the purpose of arranging the sale price of property property acquired.

The tender offer may not exceed the maximum value determined according to the revised appraisal and will be submitted in writing giving the last known address within five (5) working days from the date of receipt of the Letter of Offer , the owner seller to accept it.

If after five (5) working days no reply is received in writing by the owner seller, it is understood as a rejection of the tender offer, and will proceed according to Section 5 of this Article.

If the seller owner disagreed with the tender offer DNER shall inform in writing to the Division of Real Estate at the time specified and may then submit a counteroffer.

The same must be supported by another appraisal or valuation report that meets the criteria used primarily in the appraisal or valuation report prepared by the DNER and stating the grounds on which the amount payable by the DNER should be greater than that provided in the appraisal or valuation report prepared by the DNER.

The DNER submitted to the reviewer the appraiser or appraisal valuation report prepared by the vendor for evaluation.

The reviewer appraiser prepare a written report setting the acceptance or rejection of the appraisal or valuation report submitted by the seller and basing his conclusions.

The DNER inform in writing the seller owns the final determination of the review of the appraisal or valuation report.

If after five (5) business days after receipt of notice of final determination, there is no written response from the owner seller, it is understood as a rejection of the tender offer, and will proceed according to the Section 5 of this Article.

If agreed a sale price, the Division of Real Estate handled the preparation of a deed of sale, which must be made before a notary, licensed by the Board of Examiners of aspirants to the practice of law and notary of the Commonwealth. The notary fees, if any, shall be agreed between the parties in accordance with the laws and regulations.

The DNER can reach any terms of payment allowed by law, as agreed between the parties.

The Real Estate Division must ensure that the deed of sale granted in favor or for the benefit of the DNER, is presented in the Land Registry for a term of five (5) business days after the award of the same.

The Real Estate Division must ensure that the CRIM is filed an application for change of ownership of the property acquired, following the regulations.

In cases where procurement is carried out through barter, is considered the provisions of Section 6 of this Article.

In cases where you could not complete the purchase and sale by negotiation, the DNER shall acquire, through the Division of Real Estate, the real property interest through the mechanism of expropriation provisions of the Expropriation Act 12 March 1903, as amended.

#### Section 5: Acquisition by expropriation

The expropriation procedure shall be applied in cases where, after exhausting efforts to acquire the real property interest in the DNER through a negotiation process, failure to achieve satisfactory agreements with the seller. Negotiator by the DNER

will be obliged to explain by memorandum to the Director of the Division of Real Estate, all arrangements, meetings and efforts with the owner to acquire real property by negotiation required before proceeding with eminent domain.

The expropriation procedure shall be governed in accordance with the provisions of the Expropriation Act of 12 March 1903, as amended.

In cases where the DNER can not begin the process of eminent domain, the Division of Real Estate will manage this process with another Commonwealth agency or entity that may conduct the procedure of expropriation on behalf of the DNER.

When applying the provisions of the preceding paragraph, the DNER in the first instance should consider the use of the commonwealth Department of Justice.

The DNER, through the Division of Real Estate, have the power to contract with another governmental entity other than the Department of Justice, where it is of greater benefit to the DNER. The record of each case must include a memorandum justifying such action by the Director of the Division of Real Estate.

The Division of Real Estate will ensure that any agreement signed between the DNER and the Agency Commonwealth expropriating state clearly that the expropriation process will be contracted out at the request of the DNER and the DNER use and benefit.

Expropriation where agreements with other agencies or entities of the commonwealth, be required that they include a clause:

The contracted entity will ask the Court to compel the registration of immovable property expropriated in the name of the DNER, or failing;

the entity contracted to recognize that once completed the process of expropriation will take place once a transfer of real property to DNER whose costs are borne by the DNER.

Expropriation procedures through the Department of Justice or other agencies or entities of Real Estate Division must ensure that the CRIM is filed an application for change of ownership of the property acquired, following the regulations. Commonwealth shall be governed by the organic laws and regulations of these entities.

#### Section 6: swaps

The exchange, as defined in this regulation may take place only when the result of the same result in a benefit for the DNER greater than or equal to the profit generated by the real property exchanged. This, considering the mission and objectives DNER according to the various laws and regulations.

To determine the value of real property to receive shall be to prepare an appraisal report or valuation, according to the provisions of Section 3 of Article VII of these Regulations.

Article VIII: Acquisition of Real Property and real rights by assignment

Section 1: Office Coordinator

The process of acquisition of real property and real rights through the transfer process will be coordinated by the Division of Real Estate.

Section 2: Required Documents

The transferor shall submit to the Division of Real Estate the following documents relating to immovable property subject to assignment for evaluation:

RPA Resolution / No. / Date

Copy the plan of the real property to be transferred to include the location of the real property transfer in Lambert coordinates or other location method from time to time establish the Real Estate Division.

Certificate of Registration or Title Study with no more than six (6) months from the date issued before the granting of writing.

Appraisal or valuation report of the real property to be transferred with no more than six (6) months from issued.

Certification stating that the real property to be transferred free of liens and encumbrances and environmental mortgage understanding that the DNER will not accept the transfer of real property taxing the commonwealth.

Draft deed of assignment.

Any other documents that the Division of Real Estate understands need for a fair assessment of the assignment.

Section 3: Procedure for Acquisition

The Real Estate Division will conduct a review of the documents required to determine compliance with the provisions of Section 2 of this Article. Incomplete documentation will be returned to the assignor.

Upon receipt of all required documentation, the Division of Real Estate will assess the real property subject to assignment in accordance with the provisions of applicable law and regulations.

The Real Estate Division will identify those operational areas DNER with interest in the matter and request comments and recommendations to enable a fair assessment of the transfer proposal. If necessary you can use external resources, subject to compliance with applicable laws and regulations for recruitment de los mismos.

Any requests for comments or recommendations should be handled by the unit referred to in a term not exceeding five (5) days after receipt. The Division of Real Estate has the power to grant additional terms exist reasonable cause. The comments and recommendations received will be part of the report to be rendered by the Division of Real Estate to the Registrar.

The Real Estate Division will submit to the Secretary a report detailing the specific characteristics of the real property subject to assignment, the legal basis for accepting the same, the comments and recommendations of each advisory unit, if any, and the final recommendation of the Division of Real Estate.

The final determination on whether or not the assignment is the Secretary.

If the Secretary determines that it must accept the assignment, the Real Estate Division will inform the donor within a period not to exceed five (5) days after being notified by the Registrar, stating the reasons why the transfer was not accepted .

If the Secretary determines to accept the assignment, the Division of Real Estate written notice of such acceptance by the assignor or other documentation requiring any action necessary to complete the acquisition process.

The transfer of immovable property is carried out through the award of public writing in which the Secretary accepts the assignment on behalf of the DNER.

The costs, expenses and fees of the assignment and its respective presentation at the appropriate Land Registry, if any, are the responsibility of the assignor.

The notary grantor shall be obliged to submit to the Division of Real Estate, a term not exceeding five (5) days a certified copy of the deed of assignment granted and filing minutes of seat that certifies the presentation of writing in the corresponding Land Registry.

Once executed as provided in subsection (k) above, the Real Estate Division shall issue a Transfer Certificate which states that the assignment was completed to the satisfaction of the DNER.

The Real Estate Division must ensure that the CRIM is filed an application for change of ownership of the property acquired, following the regulations.

#### Article IX: Donations

## Section 1: Office Coordinator

The Real Estate Division is responsible for coordinating procedures intended to obtain real property through donations.

## Section 2: Procedure for Acquisition

The donor must submit to the Division of Real Estate, and in writing of their intention to donate certain real property, setting out the restrictions, if any, referred to as part of the donation. The notice shall include a clear description of the real property to donate and a certificate of legal capacity of the donor to donate real property subject to donation.

The Real Estate Division will conduct an assessment of real property subject to donation to ensure that the uses that the DNER will give the same are in accordance with the purpose entrusted to DNER by its organic law and any other laws, regulations, related resolutions or executive orders.

The donor must submit to the Division of Real Estate Division documentation that requires you to could include, inter alia, proof of ownership, certificate of debt, plans and other documents necessary for a fair assessment of the quantitative and qualitative characteristics of the property subject to donation.

When the intention of donating is subject to special conditions, the Real Estate Division shall consider the ability of DNER to meet donor requirements.

The Real Estate Division may request recommendations to the various operational units of the DNER to ensure adequate assessment of real property subject to the donation.

The recommendations will be reported in writing to the Division of Real Properties for a term not exceeding five (5) days after receipt. The same will be part of the report which will then be rendered by the Division of Real Estate to the Registrar.

The Real Estate Division will submit to the Secretary a report detailing the specific characteristics of the real property subject to donation, the recommendations of each advisory unit, if any, the future budgetary impact of the acquisition and its final recommendation.

The final determination on whether or not subject to real property donation will be the Secretary or his authorized representative.

If the Secretary determines that it must accept the donation, the donor will be notified through the Division of Real Estate, and in writing, why not accept the donation.

If the Secretary determines to accept the donation will require the Division of Real Property, to notify such acceptance to the donor and appropriate to coordinate the procurement process, as agreed by the parties.

### Section 3: Step Acquisition

Once the Secretary determines to accept the donation, staff of the Division of Real Estate will meet with the donor to establish in writing the terms for the preparation of a deed of donation.

The Real Estate Division will process the following documents necessary for the granting of the deed of donation:

Certification registration of real property subject to donation. This certification should not exceed six (6) months from issued achieved when the transaction.

Tax Debt Certification of real property subject to donation. This certification should not exceed six (6) months from issued achieved when the transaction.

Certification issued by the tax amount CRIM. This certification should not exceed six (6) months from issued achieved when the transaction.

Study of title to real property purchased, which should not exceed thirty (30) days issued achieved when the transaction.

Taxation of real property subject to donation to determine their market value.

Once the evaluation of the documentation mentioned in subsection b, the Division of Real Estate handled the preparation of a deed of gift, which must be made before a notary, licensed granted by the Board of Examination of Applicants to Exercise Commonwealth Lawyers and Notaries. The notary fees, if any, shall be agreed between the parties in accordance with the laws and regulations.

The notary must, in the granting date of writing, all the necessary documentation to file the deed of donation in the Land Registry property and provide certified copy of the deed of donation at the time of granting the same.

The procedures for filing of the deed of donation are the sole responsibility of the DNER. The Real Estate Division shall, within a period of five (5) working days from the granting thereof, file the same in the Land Registry concerned.

The Real Estate Division must ensure that the CRIM is filed an application for change of ownership of the property acquired, following the regulations.

### Article X: General Provisions

Any natural or legal person need to submit, before any agency of the DNER, proof of having sold, transferred, traded, donated or otherwise transferring the title to any real property or real right to name or for the DNER should request the Real Estate Division of the form and manner as the Division of Real Property set, a certification to that effect.

No dependence of the DNER accept as evidence or proof of a transaction (sale, transfer, exchange, donation or otherwise transfer title to any real property or real right to name or for the DNER) document of any kind or nature unless accompanied by an Original Certificate provided by the Division of Real Estate affirming or assuring the same.

The provisions of this regulation does not necessarily apply to the transfer of real property with other governmental entities. The application of one or more provisions of these Regulations shall be the discretion of the Secretary.

Article XI: Severability clause

Any matters not covered by this Regulation shall be settled by the Registrar in accordance with laws, regulations, executive orders and existing resolutions and in everything that is not covered by them shall be governed by the rules of sound public administration.

Article XII: Severability Clause

If any word, phrase, or article or part of this Regulation be declared unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not affect, impair or invalidate the remaining provisions and parts of this regulation, but its effect is limited to the word, subsection, sentence, section or part in any specific case and not be deemed to affect or prejudice in any sense valid application or otherwise.

Article XIII: Approval

This regulation shall take effect immediately after its approval and filed in the Department of State and the Legislative Library, in accordance with the provisions of Act 170, "Uniform Administrative Procedure Act, as amended.

## Appendix R: Originating Law of the DNER



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
Departamento de Recursos Naturales y Ambientales  
División de Traducciones, Publicaciones y Biblioteca

Ley Núm. 23 de 20 de junio de 1972  
Ley Orgánica del Departamento de Recursos Naturales y Ambientales

Incluye las siguientes enmiendas:  
Ley Núm. 31 de 29 de septiembre de 1983  
Ley Núm. 31 de 14 de enero de 2000 (Humedales)

## Departamento de Recursos Naturales—Creación

(P. del S. 1822)

[NOM. 23]

[Aprobada en 20 de junio de 1972]

## LEY

Para crear un Departamento de Recursos Naturales, establecer su organización, facultades y deberes, transferir funciones, disponer penalidades y asignar fondos para su operación y para disponer que el Secretario de Recursos Naturales sea miembro de la Junta de Calidad Ambiental.

## EXPOSICIÓN DE MOTIVOS

La complejidad que exhiben los procesos económicos y sociales de Puerto Rico en sus interrelaciones con el mundo de los recursos naturales presenta retos de enorme magnitud para todos nuestros ciudadanos.

La magnitud de las fuerzas demográficas, económicas y geográficas que se reúnen en Puerto Rico tienden a acelerar el deterioro ambiental, ejercen grandes presiones sobre la conservación de los recursos naturales y someten a las estructuras gubernamentales existentes a serios reclamos por soluciones rápidas y efectivas a esos agudos problemas.

Dada la actual estructuración de organismos públicos para bregar con la problemática referida, dichos reclamos generalmente trascienden los poderes y facultades de las agencias existentes, o como sucede en numerosas ocasiones, la dispersión de funciones operacionales en múltiples agencias diluye el esfuerzo gubernamental y la solución es tardía o puede no llegar.

Lo anterior exige que se desarrolle, como complemento a la función de elaborar la política pública sobre los recursos naturales y el medio ambiente de la Junta de Calidad Ambiental de Puerto Rico, una centralización efectiva de las funciones operacionales y de implementación de reglamentos que al presente desempeñan múltiples organismos gubernamentales, con la consiguiente duplicación de trabajo y pérdida de esfuerzo y dinero.

*Decrétase por la Asamblea Legislativa de Puerto Rico:*

Artículo 1.—

Esta ley se conocerá como "Ley Orgánica del Departamento de Recursos Naturales".

Artículo 2.—

Se crea por la presente como departamento ejecutivo de gobierno un Departamento de Recursos Naturales.

Artículo 3.—

El Departamento de Recursos Naturales será responsable de implementar en lo que respecta a la fase operacional, la política pública del Estado Libre Asociado de Puerto Rico contenida en la sección 19 del Artículo VI de la Constitución<sup>1</sup> según establecida por la Junta de Calidad Ambiental a tenor con la Ley núm. 9 de 18 de junio de 1970, según enmendada.<sup>2</sup> A estos efectos pondrá en vigor programas para la utilización y conservación de los recursos naturales de Puerto Rico, siempre dentro de las normas que establezca la Junta de Calidad Ambiental.

Artículo 4.—

El Departamento de Recursos Naturales estará bajo la dirección y supervisión de un Secretario de Recursos Naturales quien será nombrado por el Gobernador de conformidad con la sección 5 del Artículo IV de la Constitución del Estado Libre Asociado.

Artículo 5.—

El Secretario de Recursos Naturales tendrá, en adición a las que le son por esta ley transferidas, las siguientes facultades y deberes:

(a) asesorar y hacer recomendaciones al Gobernador, a la Asamblea Legislativa y a otros organismos del gobierno con respecto a la implementación de la política pública sobre los recursos naturales.

(b) establecer la organización interna del Departamento, y nombrar con arreglo a las leyes aplicables el personal necesario para su operación.

<sup>1</sup> L.P.R.A., tomo 1.

<sup>2</sup> 12 L.P.R.A. secs. 1121 a 1140, 3 L.P.R.A. secs. 429c a 429e.

(c) nombrar un Subsecretario quien desempeñará las funciones que le asigne el Secretario y sustituirá a éste en caso de interinato.

(d) aprobar, enmendar y derogar reglamentos para llevar a cabo los objetivos de esta ley, de conformidad a la Ley núm. 112 de 30 de junio de 1957.\*

(e) celebrar convenios o acuerdos necesarios y convenientes a los fines de alcanzar los objetivos del Departamento y sus programas, con organismos del Gobierno de los Estados Unidos de América, con los gobiernos estatales, con otros departamentos, agencias o instrumentalidades del Gobierno del Estado Libre Asociado y con instituciones particulares; queda así mismo facultado para aceptar y recibir cualesquiera donaciones o fondos por concepto de asignaciones, anticipos o cualquier otro tipo de ayuda o beneficio cuando éstos provengan de dichos organismos gubernamentales o instituciones de fines no pecuniarios.

(f) nombrar aquellas comisiones, juntas y comités que estime necesarios para el mejor logro de los objetivos de esta ley, así como colaborar con cualesquiera entidades afines con los objetivos y propósitos del departamento, pudiendo para ello ofrecerle servicios de secretaría o de ayuda técnica que éstos necesitaren. En el nombramiento de estas comisiones, juntas y comités el Secretario deberá dar atención cuidadosa a que se estimule y se ofrezca amplia oportunidad para la participación ciudadana.

(g) mediante reglamento al efecto, establecer los derechos a pagarse por los permisos de hincado de pozos para extracción de agua subterránea en terrenos públicos y privados a tenor con las facultades que le son transferidas por el inciso (h) del Artículo 6 de esta ley, controlar el uso y extracción de las aguas subterráneas, fijar su ritmo de extracción y establecer los derechos a pagarse por el agua subterránea que se extraiga de pozos en terrenos públicos o privados.

(h) ejercer la vigilancia y conservación de las aguas territoriales, los terrenos sumergidos bajo ellas y la zona marítimo-terrestre, conceder franquicias, permisos y licencias de carácter público para su uso y aprovechamiento y establecer mediante reglamento los derechos a pagarse por los mismos. A estos

\* 8 L.P.R.A. secs. 1041 a 1059.

efectos estará facultado para ejercer aquellos poderes y facultades que le puedan ser delegadas por cualquier agencia o instrumentalidad del gobierno federal bajo cualquier ley del Congreso de los Estados Unidos.

Artículo 6.—

Se transfieren al Departamento de Recursos Naturales para su ejecución por el Secretario las siguientes funciones, facultades y deberes al presente asignadas por ley a otros organismos del Estado Libre Asociado:

- (a) Los poderes y funciones de la Comisión de Minería y de su Secretario Ejecutivo conferidas por la Ley de Minas de Puerto Rico, Ley número 6 de 6 de octubre de 1954,<sup>10</sup> y se suprime la Comisión de Minería, y el cargo de Secretario Ejecutivo.
- (b) Los poderes y funciones del Secretario de Obras Públicas, conferidas por la Ley 158 del 28 de junio de 1968<sup>11</sup> y se suprime el cargo de Secretario Auxiliar de Recursos Naturales.
- (c) Los poderes, facultades, funciones y actividades del Secretario de Obras Públicas sobre prevención de inundaciones y conservación de ríos y playas conferidas por la Ley núm. 6 del 29 de febrero de 1968<sup>12</sup> y sobre la extracción de materiales de la corteza terrestre conferidos por la Ley número 132 de 25 de junio de 1968.<sup>13</sup>
- (d) Los poderes, funciones y actividades de la Comisión de Servicio Público relacionados con concesión de franquicia para el uso de las aguas públicas y el cumplimiento de la Ley de Aguas, la responsabilidad de la policía de las aguas y todas las funciones en relación con dichas facultades y responsabilidades.
- (e) Las funciones y actividades relacionadas con los estudios geológicos y mineralógicos a cargo del Departamento de Investigaciones Industriales de la Administración de Fomento Económico.
- (f) Los poderes y funciones del Secretario de Agricultura conferidos por la "Ley de Caza" número 874 de 11 de mayo de 1950;<sup>14</sup> "Ley de Pesca" número 83 de 13 de mayo de 1936;<sup>15</sup> "Ley

<sup>10</sup> 28 L.P.R.A. secs. 111 a 180.

<sup>11</sup> 8 L.P.R.A. secs. 429 a 429I.

<sup>12</sup> 12 L.P.R.A. secs. 1101 a 1103.

<sup>13</sup> 28 L.P.R.A. secs. 201 a 222.

<sup>14</sup> 12 L.P.R.A. secs. 1 a 16.

<sup>15</sup> 12 L.P.R.A. secs. 41 a 63.

de Bosques" número 22 de 22 de noviembre de 1917;<sup>14</sup> los poderes y funciones con respecto a terrenos forestales y viveros de las leyes número 19 de 28 de mayo de 1925;<sup>15</sup> número 38 de 25 de abril de 1930;<sup>16</sup> número 39 de 25 de abril de 1930;<sup>17</sup> número 307 de 13 de abril de 1946;<sup>18</sup> número 149 de 9 de mayo de 1945<sup>19</sup> y número 46 de 18 de junio de 1965;<sup>20</sup> sobre protección de cuencas hidrográficas y prevención de inundaciones de la Ley número 28 de 14 de mayo de 1964<sup>21</sup> y la Resolución Conjunta número 4 de 20 de abril de 1967.<sup>22</sup>

(g) Los poderes y funciones de la Junta de Calidad Ambiental con respecto al hincado de pozos para extracción de aguas subterráneas conferidos por el Artículo 11, inciso (23) de la Ley Sobre Política Pública Ambiental, núm. 9 de 18 de junio de 1970.<sup>23</sup>

(h) Los récords y la propiedad que están usándose en conexión con las funciones o actividades transferidas por esta ley, el personal empleado actualmente en estas funciones o actividades, las asignaciones presupuestarias y otros recursos disponibles para utilizarse en conexión con dichas funciones o actividades.

#### Artículo 7.—

Con excepción de las modificaciones que sea necesario hacer para ajustar las agencias y programas transferidos por esta ley a la estructura departamental, las leyes que gobiernan dichas agencias y programas continuarán vigentes, excepto aquellas disposiciones que pudieran estar en conflicto con esta ley, las cuales quedan por la presente derogadas.

#### Artículo 8.—

Cualquier violación de esta ley o de los reglamentos promulgados al amparo de ésta constituirá delito menos grave.

<sup>14</sup> 12 L.P.R.A. secs. 121 a 128.

<sup>15</sup> 12 L.P.R.A. secs. 151 a 156.

<sup>16</sup> 12 L.P.R.A. secs. 157 a 166.

<sup>17</sup> 12 L.P.R.A. secs. 167 a 169.

<sup>18</sup> 12 L.P.R.A. secs. 170 a 175.

<sup>19</sup> 12 L.P.R.A. secs. 176 a 178.

<sup>20</sup> 12 L.P.R.A. sec. 261.

<sup>21</sup> 12 L.P.R.A. sec. 252.

<sup>22</sup> 12 L.P.R.A. sec. 253.

<sup>23</sup> 12 L.P.R.A. sec. 1131(23).

**Artículo 9.—**

Se asigna al Departamento de Recursos Naturales para el desempeño de las funciones establecidas por esta ley durante el año fiscal 1972-1973 la cantidad de un millón de dólares de los fondos no comprometidos del tesoro estatal. Los fondos necesarios para años subsiguientes se consignarán en el Presupuesto General.

**Artículo 10.—**

Se crea en el Departamento de Recursos Naturales un Comité de Negociaciones de Asuntos Mineros, que estará compuesto por siete miembros nombrados por el Gobernador representando a la Junta de Planificación, al Departamento de Justicia, Salud, Hacienda, Agricultura, Transportación y Obras Públicas y un ciudadano particular. El Comité asesorará al Secretario de Recursos Naturales en las negociaciones y convenios sobre los términos y condiciones de los arrendamientos mineros.

**Artículo 11.—**

A tono con los propósitos de esta ley, el Secretario de Recursos Naturales será un miembro, en adición a los actuales de la Junta sobre Calidad Ambiental.

**Artículo 12.—**

Todos los programas administrados por el Departamento de Recursos Naturales y las facultades aquí conferidas a su Secretario, se implementarán de acuerdo con la política pública ambiental establecida.

**Artículo 13.—**

Se ordena la creación de un comité compuesto por la Junta de Calidad Ambiental, el Secretario de Justicia y un número adicional de miembros designados por el Gobernador hasta completar once (11) para que a partir de la fecha de vigencia de esta ley, efectúe un estudio en el cual se determinarán las funciones y programas del Estado Libre Asociado de Puerto Rico que deban ser transferidas al Departamento de Recursos Naturales por razón de su estrecha relación a la fase operacional de problemas o asuntos ambientales que caerán bajo la jurisdicción del Departamento de Recursos Naturales.

Se faculta al Gobernador a transferir al Departamento de Recursos Naturales, mediante Orden Ejecutiva, cualesquiera oficinas, funciones y programas del Gobierno del Estado Libre

Asociado, así como su personal, propiedades, archivos y fondos presupuestados que de acuerdo con las recomendaciones emitidas por el Comité creado por este artículo, deban continuar sus funciones bajo el Departamento de Recursos Naturales por razón de administrar programas relacionados con problemas o asuntos ambientales o en otra forma proveer para el fomento y bienestar del medio ambiente. El Gobernador remitirá copia de toda orden ejecutiva proveyendo para una o más de tales transferencias a la Asamblea Legislativa para su información en la sesión ordinaria o extraordinaria más cercana a la fecha en que se expida la orden.

No se podrá transferir, mediante orden ejecutiva, al Departamento de Recursos Naturales ningún Programa, Junta, Oficina, Dependencia u organismo creado por ley.

Artículo 14.—Esta ley entrará en vigor el 2 de enero de 1973.

*Aprobada en 20 de junio de 1972.*

(P. del S. 947)

LEY NUM 31  
29 SEP 1983

LEY

Para adicionar los incisos (i), (j), (k), (l), (m), (n) y (o) al Artículo 5 y enmendar el Artículo 8 de la Ley Núm. 23 de 20 de junio de 1972, según enmendada, conocida como "Ley Orgánica del Departamento de Recursos Naturales", para autorizar al Secretario a tomar medidas para la conservación y preservación de especies de vida silvestre, animales y plantas, para obtener información y datos para su sobrevivencia, adquirir terrenos y hábitáculos acuáticos y el derecho de participación pública en la designación de las especies amenazadas o en peligro de extinción, a operar y mantener áreas, estructuras y facilidades recreativas en los terrenos bajo su custodia y administración, cobrar derechos de impresión y reproducción, reglamentar el uso recreativo y deportivo de vehículos de motor de campo travesía, facultar al Secretario a imponer multas administrativas y crear un Fondo Especial.

EXPOSICION DE MOTIVOS

Es imperativo que el Departamento de Recursos Naturales posea todas las facultades y poderes necesarios para la conservación, preservación, distribución y manejo de las especies de vida silvestre residentes, migratorias y exóticas, animales y plantas en el Estado Libre Asociado de Puerto Rico. De esta forma la Agencia podrá desarrollar programas de conservación efectivos para todas estas especies, investigar su situación y factores de sobrevivencia, incluyendo la adquisición de las áreas y hábitáculos necesarios para estos fines a tono con las nuevas exigencias dentro del área de los recursos naturales.

La Ley debe garantizar la participación pública en el proceso de reglamentación de la designación de las especies que están amenazadas o en peligro de extinción. De esta manera la Agencia dispondrá de amplia información para tomar las medidas más provechosas de conservación y manejo de estas especies.

Por otra parte, los terrenos bajo la custodia y administración del Departamento de Recursos Naturales, por sus características físicas, topográficas y estéticas son lugares adecuados para la recreación pasiva permitiendo al hombre un acercamiento con la naturaleza. Por consiguiente, para lograr su pleno aprovechamiento, el Estado, por medio del Departamento de Recreación y

Deportes y el Departamento de Recursos Naturales, debe promover el mantenimiento, desarrollo y establecimiento de áreas y facilidades recreativas, siempre y cuando esta actividad no resulte incompatible con la conservación y protección de los referidos terrenos. Para lograr esto, entendemos que es conveniente el facultar al Secretario del Departamento de Recursos Naturales con plena autoridad para administrar estos terrenos y autorizarlo a fijar derechos y tarifas a cobrarse por el uso de estas áreas. Esto se hará con la aprobación del Secretario de Recreación y Deportes.

En adición, el Departamento de Recursos Naturales de Puerto Rico como custodio de un sinnúmero de documentos públicos, tiene que expedir y certificar copias de los mismos a los ciudadanos y funcionarios públicos que así lo solicitan.

Los derechos a cobrar por la solicitud de copia certificada de aquellos documentos públicos que obren en poder de cualquier instrumentalidad pública, satisfechos en Sellos de Rentas Internas, están establecidos en el Código Político de Puerto Rico. No obstante, existe una diferencia entre el cobro de derechos por la certificación de copias oficiales de documentos públicos según dispone el Código Político, y el cobro de reproducción de documentos o informes.

Al presente, no existe provisión alguna en la Ley Orgánica del Departamento que autorice el cobro de dinero por el Suministro de copias de documentos, estudios o informes que obren en poder del Departamento de Recursos Naturales. La autorización para cobrar dinero por el concepto anteriormente expresado resultará sumamente conveniente y provechosa tanto para el Departamento como para los ciudadanos que soliciten certificaciones y copias de documentos, ya que se establecerán normas uniformes mediante reglamentación para el procedimiento, garantizando así una mayor organización y efectividad al ofrecer estos servicios a las personas que así lo requieran.

En la actualidad al Departamento de Recursos Naturales le urge controlar el tránsito de los vehículos de campo travesía (V.C.T.) en terrenos públicos. Estos afectan adversamente los recursos naturales, la vegetación, la fauna y la flora, ocasionando además la erosión acelerada del terreno, de las dunas costaneras y de los ecosistemas circundantes. Es necesario facultar al Secretario para reglamentar estas actividades que resultan incompatibles con la conservación y preservación de nuestros recursos naturales.

Esto se hará conjuntamente con el Departamento de Transportación y Obras Públicas y la Secretaría de Recreación y Deportes.

Los ingresos que se devenguen por todos estos conceptos se depositarán en un Fondo Especial dentro del propio Departamento de Recursos Naturales y se emplearán para mantener y habilitar las áreas y facilidades recreativas y los Programas de Manejo que se establezcan.

En cuanto a la autorización al Secretario para imponer multas administrativas por infracciones a esta ley, dicha disposición es conveniente y necesaria, ya que no basta con que se legisle para proteger el interés público sino que también deben proveerse los medios para viabilizar el cumplimiento de la ley.

*Decretese por la Asamblea Legislativa de Puerto Rico:*

Sección 1.—Se adicionan los incisos (i), (j), (k), (l), (m), (n) y (o) al Artículo 5 de la Ley Núm. 23 de 20 de junio de 1972, según enmendada, para que se lea:

“Artículo 5.—El Secretario de Recursos Naturales tendrá, en adición a las que le son por esta ley transferidas, las siguientes facultades y deberes:

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....
- (f) .....
- (g) .....
- (h) .....

(i) tomar todas las medidas necesarias para la conservación, preservación, distribución, manejo, introducción, propagación y restauración de especies de vida silvestre residentes, migratorias y exóticas, animales y plantas, tanto terrestres como acuáticas, en el Estado Libre Asociado de Puerto Rico, disponiéndose que se exceptúa de lo anterior la designación de santuarios.

(j) llevar a cabo investigaciones con el fin de obtener información sobre la población, distribución, necesidades de hábitculos, factores limitantes y otros datos biológicos y ecológicos para determinar las medidas de conservación

necesarias para el sostenimiento y sobrevivencia de las especies de vida silvestre, animales y plantas mencionadas en el inciso (i) de este Artículo.

(k) adquirir por compra, donación, transferencia o cualquier otro medio que en derecho proceda, tierras y hábitáculos acuáticos apropiados para las especies indicadas en el inciso (i) de este Artículo.

(l) facultad para adoptar reglamentos con el fin de designar, mejorar y preservar las especies de vida silvestre, animales y plantas, tanto terrestres como acuáticas, amenazadas o en peligro de extinción en el Estado Libre Asociado de Puerto Rico, proveyéndose expresamente el derecho de la ciudadanía a participar en el proceso de vistas públicas que a estos efectos deben celebrarse.

(m) facultad para establecer, construir, desarrollar, operar y mantener áreas, estructuras y facilidades recreativas en los terrenos bajo su custodia y administración y fijar los derechos y tarifas a cobrarse por estos conceptos. Esto se hará con la aprobación del Secretario de Recreación y Deportes. Los ingresos que se devenguen por estas actividades se depositarán en un Fondo Especial destinado al mantenimiento y operación de estas áreas.

(n) fijar y cobrar mediante reglamentación a estos efectos los derechos correspondientes por las copias de publicaciones, estudios, informes, mapas, planos, fotografías y cualquier documento de carácter público que le sean requeridas. Los ingresos que por este concepto se obtengan ingresarán en un Fondo Especial dentro del Departamento. No obstante, el Secretario o la persona en quien él delegue esta facultad, suministrará copia gratis a las Ramas Legislativa, Judicial y Ejecutiva, así como a los Gobiernos Municipales y a su discreción, a las personas o entidades que considere conveniente.

(o) facultad para reglamentar el uso recreativo y deportivo de vehículos de motor de campo travesía (V.C.T) tales como automóviles, motoras, vehículos de tracción en las cuatro ruedas, 'duna buggies' en terrenos públicos. Estos reglamentos se formularán y adoptarán conjuntamente con el Departamento de Transporte y Obras Públicas y la Secretaría de Recreo y Deportes. El Secretario del Departamento de Recursos Naturales, en coordinación con las

Federaciones y Asociaciones de V.C.T. de Puerto Rico, designará áreas específicas para el uso recreativo y deportivo de vehículos de motor de campo traviesa. Los ingresos que se devenguen por concepto de esta reglamentación se depositarán en un Fondo Especial destinado al mantenimiento y operación de las actividades y programas de manejo que así se establezcan."

Sección 2.—Se enmienda el Artículo 8 de la Ley Núm. 23 de 20 de junio de 1972, según enmendada, para que se lea:

"Artículo 8.—Penalidades, Vistas Administrativas—

(a) Cualquier violación de esta ley o de los reglamentos promulgados al amparo de ésta, constituirá delito menos grave y convicto que fuere el acusado, será castigado con pena de multa no menor de cincuenta (50) dólares ni mayor de quinientos (500) dólares, o cárcel por un periodo no menor de cinco (5) días ni mayor de noventa (90) días, o ambas penas a discreción del tribunal.

(b) Se faculta al Secretario del Departamento de Recursos Naturales a imponer multas administrativas por los daños causados a las especies de vida silvestre, animales y plantas, o por infracción a cualquier disposición de esta ley o de los reglamentos y medidas adoptadas por el Secretario al amparo de las mismas, previa celebración de una vista administrativa. El Secretario de Recursos Naturales fijará, mediante reglamentación al efecto, las cantidades que en concepto de multas administrativas deberán ser pagadas por cada acto ilegal llevado a cabo en violación a lo dispuesto en este Artículo. Las multas administrativas no excederán de cinco mil (5,000) dólares por cada acto ilegal llevado a cabo. Cada infracción a esta Ley o sus reglamentos se considerará como una violación separada y estará sujeta a una multa administrativa hasta el máximo previamente establecido.

(c) En caso de violaciones subsiguientes al Artículo 8 de esta ley, el Secretario de Recursos Naturales, en el ejercicio de su discreción, podrá imponer una multa administrativa adicional de hasta un máximo de diez mil (10,000) dólares.

(d) El Secretario de Recursos Naturales señalará el día, hora y sitio en que se celebrará la vista administrativa a que se refiere el inciso (b) de este Artículo, notificándole a la parte interesada la celebración de la misma por correo certificado con acuse de recibo a su última dirección conocida. La parte

interesada podrá comparecer a dicha vista por sí o representada por abogado. A los efectos de la vista administrativa aquí autorizada, el Secretario de Recursos Naturales podrá ordenar la comparecencia y declaración de testigos, la presentación de toda la evidencia que considere pertinente y tomar juramento y recibir testimonios. Cuando se desobedezca una citación del Secretario, éste podrá recurrir al tribunal para que se expida una orden judicial requiriendo el cumplimiento de la citación. Cualquier desobediencia a la orden del tribunal podrá ser castigada por éste como desacato. El Secretario dictará resolución dentro de los treinta (30) días siguientes a la celebración de la vista y notificación con copia a la parte interesada a su última dirección conocida. El Secretario hará constar en su resolución una descripción del acto o actos ilegales por cuya comisión se impone la multa administrativa. La parte afectada por la decisión del Secretario podrá solicitar por escrito la reconsideración de la misma dentro de los diez (10) días siguientes a la fecha en que hubiere sido notificada de la decisión. Esta solicitud de reconsideración será resuelta por el Secretario dentro de los quince (15) días siguientes a la fecha en que hubiere sido notificado de la misma. La parte afectada por una decisión en reconsideración podrá, dentro de los diez (10) días siguientes a la fecha de notificación de tal decisión, radicar un recurso de revisión ante el Tribunal Superior. Radicado el recurso, el peticionario deberá notificar del mismo al Secretario dentro de un término de cinco (5) días a contar desde su radicación.

El Secretario elevará al tribunal en el plazo que éste fije, copia certificada de todo el expediente del procedimiento administrativo. La solicitud de reconsideración o la interposición del recurso de revisión a que se refiere este inciso no suspenderá los efectos de la orden o resolución del Secretario."

Sección 3.—Esta Ley entrará en vigor treinta (30) días después de su aprobación.

Departamento de Estado

CEL. FRANCISCO S. SERRANO y

ejecuto del original aprobado y firmado por el Gobernador del Estado

Libre Asociado de Puerto Rico el

día 29 de septiembre de 1953

.....  
Presidente de la Cámara

6

*Laura Perdomo*

Secretaria Auxiliar de Estado  
de Puerto Rico

Sustitutivo al  
PLAN DE REORGANIZACION NUM. 4 DE 1993 (Aprobada en 9 de Dic de 1993)

## DEPARTAMENTO DE RECURSOS NATURALES Y AMBIENTALES

Preparado por la Asamblea Legislativa del Estado Libre Asociado de Puerto Rico previo estudio del Plan de Reorganización Número 4, titulado *Departamento de Recursos Naturales y Medio Ambiente*, sometido por el Gobernador de Puerto Rico de acuerdo con las disposiciones de la Ley Número 5 de 6 de abril de 1993.

### Artículo 1.- Declaración de Política Pública

Desde 1952, tras la aprobación de la Constitución de Puerto Rico, existe una política pública relacionada con la conservación, el desarrollo ambientalmente sostenible y el aprovechamiento de los recursos naturales. A tono con esta política pública se ha concedido al Departamento de Recursos Naturales, desde su creación en el 1972, la misión de manejar, proteger, conservar, desarrollar y aprovechar los recursos naturales y el ambiente de la Isla. Es este un fin primordial del gobierno ya que, por nuestro tamaño y condición de isla, es prioritario el buen manejo de nuestros recursos y la protección del ambiente.

El sector de los recursos naturales y el medio ambiente comprende una serie de actividades, programas y organismos entre los que se encuentran el Departamento de Recursos Naturales, la Junta de Calidad Ambiental, la Autoridad de Desperdicios Sólidos, la Oficina de Energía y otros.

El presente Plan de Reorganización responde a la necesidad de que todos aquellos organismos y programas cuyo objetivo principal es el desarrollo ambientalmente sostenible, utilización, aprovechamiento, protección y conservación de los recursos naturales, ambientales y energéticos de la Isla se desarrollen de una manera coordinada y eficiente dentro de una misma estructura administrativa. De otra parte, aquellos que fomentan el desarrollo de esos recursos con fines industriales, comerciales y turísticos pertenecen, por su propia naturaleza, al sector de desarrollo económico. Se reconoce asimismo que las funciones de la Junta de Calidad Ambiental son conflictivas con las anteriormente descritas, por lo que este organismo debe permanecer como uno autónomo que responda directamente al Gobernador.

A tenor con esto, se renomina el Departamento de Recursos Naturales y se integran a éste programas que hasta ahora se encontraban fuera de la agencia.

### Artículo 2.- Renominación del Departamento y de su Secretario

Se renomina el Departamento de Recursos Naturales como Departamento de Recursos Naturales y Ambientales. El título del Secretario se renomina como Secretario de Recursos Naturales y Ambientales.

### Artículo 3.- Funciones Generales del Departamento

El Departamento de Recursos Naturales y Ambientales constituirá el organismo dentro de la Rama Ejecutiva del Gobierno responsable de implantar en su fase operacional la política pública y los programas relacionados con el manejo, desarrollo

ambientalmente sostenible, utilización, aprovechamiento, protección y conservación de los recursos naturales, ambientales y energéticos de la Isla de acuerdo con las facultades, deberes y funciones que le han sido conferidas por la Constitución y las leyes vigentes de Puerto Rico, y conforme a la política pública ambiental establecida.

El Departamento será el encargado de desarrollar y poner en ejecución los planes, investigaciones, programas, servicios y reglamentaciones en su área de responsabilidad, en forma planificada, integral y coordinada.

#### **Artículo 4.- Componentes del Departamento**

El Departamento de Recursos Naturales y Ambientales queda constituido por los siguientes componentes:

1. Administración de Recursos Naturales, creada en virtud del Artículo 5 de este Plan;
2. Autoridad de Desperdicios Sólidos, adscrita al Departamento según el Artículo 6 de este Plan;
3. Administración de Asuntos de Energía, creada en virtud del Artículo 7 de este Plan;
4. Comité Asesor Sobre Energía, adscrito en virtud del Artículo 8 de este Plan;
5. Consejo Consultivo de Recursos Naturales y Ambientales, creado en virtud del Artículo 9 de este Plan; y
6. Corporación de Recursos Minerales, creada en virtud de la Ley Núm. 145 de 2 de junio de 1976.

Los componentes del Departamento de Recursos Naturales y Ambientales continuarán operando bajo sus respectivas leyes orgánicas en la medida en que las disposiciones de las mismas no sean incompatibles con lo que se establece en este Plan de Reorganización.

#### **Artículo 5.- Administración de Recursos Naturales**

Se crea la Administración de Recursos Naturales en el Departamento de Recursos Naturales y Ambientales. Todos los programas existentes en el Departamento de Recursos Naturales pasan a formar parte de la Administración de Recursos Naturales.

Se integra la Oficina del Comisionado de Navegación, creada en virtud de la Ley Núm. 48 de 27 de junio de 1986, al Cuerpo de Vigilantes de Recursos Naturales de Puerto Rico. En el desempeño de las funciones de su cargo, el Comisionado de

Navegación le responderá directamente al Director del Cuerpo de Vigilantes de Recursos Naturales.

#### **Artículo 6.- Autoridad de Desperdicios Sólidos**

Se adscribe la Autoridad de Desperdicios Sólidos al Departamento de Recursos Naturales y Ambientales como un componente operacional. La Autoridad conservará su autonomía operacional y administrativa y su personalidad jurídica, pero le

responderá directamente al Secretario y estará sujeta a su supervisión, evaluación y auditoría. Se suprime la Junta de Gobierno de la Autoridad y sus facultades se transfieren al Secretario, quien ejercerá las mismas. Se crea la Junta Asesora de Desperdicios Sólidos adscrita a la Autoridad.

#### Artículo 7.- Administración de Asuntos de Energía

Se crea la Administración de Asuntos de Energía en el Departamento de Recursos Naturales y Ambientales.

Se transfieren las funciones del Departamento de Asuntos del Consumidor originadas al amparo de la Ley Núm. 47 de 21 de agosto de 1990, que transfirió la Oficina de Energía al Departamento de Asuntos del Consumidor, según enmendada, y la Ley 128 de 29 de junio de 1977, que creó la Oficina de Energía, según enmendada, al Departamento de Recursos Naturales y Ambientales, para formar parte de la Administración de Asuntos de Energía, conjuntamente con los fondos y asignaciones disponibles.

Se faculta al Secretario a evaluar, considerar, aprobar o desaprobar cualquier aumento en la capacidad generatriz de energía eléctrica de Puerto Rico en exceso de un (1) megavatio, utilizando la política pública energética como base de referencia.

#### Artículo 8.- Comité Asesor Sobre Energía

Se adscribe el Comité Asesor Sobre Energía creado en virtud de la Ley Núm. 128 de 29 de junio de 1977, según enmendada, a la Secretaría de Recursos Naturales y Ambientales. El Administrador de la Administración de Asuntos de Energía será miembro de este Comité.

#### Artículo 9.- Creación del Consejo Consultivo de Recursos Naturales y Ambientales

Se crea en el Departamento un Consejo Consultivo de Recursos Naturales y Ambientales. Dicho Consejo estará compuesto por el Secretario de Recursos Naturales y Ambientales, quien lo presidirá, y por siete (7) miembros adicionales nombrados por el Gobernador. El Consejo será un cuerpo asesor y consultivo del Secretario sobre todo asunto bajo la jurisdicción del Departamento.

#### Artículo 10.- Funciones Generales del Secretario

El Secretario del Departamento de Recursos Naturales y Ambientales, en adición a las facultades y funciones inherentes a su cargo y conferidas por las leyes, será responsable de la dirección general del Departamento y sus componentes, la planificación integral del sector y la coordinación y supervisión operacional de las dependencias que lo integran.

Para el descargue efectivo de sus facultades, funciones y responsabilidades, el Secretario podrá transferir o delegar las funciones de dirigir y administrar directamente las operaciones de las entidades que componen el Departamento a los funcionarios encargados de dirigir las mismas, reteniendo para sí las facultades y funciones normativas, de política pública, supervisión y evaluación.

El Secretario de Recursos Naturales y Ambientales colaborará con el Gobernador de Puerto Rico en su función de dirección y supervisión de los organismos que componen el

sector de recursos naturales y el ambiente. El Secretario recibirá y ejecutará las facultades, deberes y funciones que el Gobernador le encomiende o delegue y actuará en representación suya en el ejercicio de las mismas.

Además, el Secretario tendrá las siguientes facultades, funciones y poderes, entre otros:

1. Proveer asesoramiento continuo al Gobernador y a la Legislatura en todo lo relacionado con su área de responsabilidad en la formulación de política pública para los sectores de recursos naturales, ambientales y energéticos.
2. Implantar la política pública en lo que corresponda, en forma integral y coordinada, así como recomendar, desarrollar e implantar la política pública energética para Puerto Rico.
3. Coordinar, supervisar y evaluar las operaciones de todo el Departamento y de sus componentes.
4. Estudiar los problemas relacionados con el sector de recursos naturales, energéticos y ambientales.
5. Desarrollar e implantar planes, medidas y programas para atender dicha problemática.
6. Realizar y promover investigaciones científicas y tecnológicas sobre los recursos naturales, energéticos y ambientales, entre ellos los recursos marinos, fuentes alternas de energía mediante la utilización de recursos renovables, disposición de los desperdicios sólidos, recursos tropicales y otros.
7. Evaluar los planes anuales de trabajo, preparar el presupuesto y supervisar la utilización de los recursos fiscales, humanos y de equipo.
8. Administrar y ejercer las funciones normativas y reglamentarias para todo el Departamento y sus componentes.
9. Administrar el sistema de personal, conforme a la Ley Núm. 5 de 14 de octubre de 1975, según enmendada, conocida como "Ley de Personal del Servicio Público de Puerto Rico".
10. Establecer y desarrollar la organización interna del Departamento, conforme a la Ley Núm. 147 de 18 de junio de 1980.
11. Establecer acuerdos y convenios con agencias del Gobierno de Estados Unidos y solicitar y administrar fondos federales para los fines del Departamento.
12. Crear juntas, comisiones, consejos o comités asesores de participación ciudadana.

#### Artículo 11.- Administración de Personal

El Departamento de Recursos Naturales y Ambientales constituirá un Administrador Individual de conformidad con lo dispuesto en la Ley Núm. 5 de 14 de octubre de 1975, según enmendada, conocida como "Ley de Personal del Servicio Público de Puerto Rico", y la Ley Núm. 89 de 12 de julio de 1979, según enmendada, conocida como "Ley de Retribución Uniforme". El Director de la Oficina Central de

Administración de Personal aprobará los Planes de Clasificación y Retribución conforme a dichas leyes tras mediar la certificación sobre disponibilidad de fondos de la Oficina de Presupuesto y Gerencia.

#### Artículo 12.- Integración de Funciones Administrativas

Dentro del año siguiente a la fecha de vigencia de este Plan, el Secretario de Recursos Naturales y Ambientales deberá integrar dentro de una sola estructura administrativa las tareas relacionadas con planificación, compras, auditoría, preparación y control del presupuesto destinado al área de recursos naturales, ambientales y de energía y, si lo estimare conveniente, las labores relacionadas con la administración de personal. La estructura que se establezca a esos efectos deberá promover la economía funcional y la eficiencia operacional de las unidades que componen el Departamento.

Dentro del término de quince (15) meses contados a partir de la fecha de la vigencia de este Plan de Reorganización, el Gobernador deberá presentar ante ambos cuerpos legislativos un informe sobre la implantación del mismo, junto con el esquema de organización del Departamento de Recursos Naturales y Ambientales y sus unidades componentes. El informe se radicará en la Secretaría de ambos cuerpos y será referido a la Comisión Legislativa Conjunta sobre Planes de Reorganización Ejecutiva, que deberá, dentro de los diez (10) días siguientes a su presentación, convocar a vistas públicas para analizar y someter a los Cuerpos Legislativos sus hallazgos, conclusiones y recomendaciones. El informe deberá incluir una relación de medidas establecidas para aumentar la eficiencia y productividad de los organismos que componen la entidad, y deberá detallar de forma específica los mecanismos adoptados o a adoptarse. La Asamblea Legislativa se reserva la facultad de enmendar o rechazar, parcial o totalmente, la reorganización que se hubiera efectuado o propuesto dentro de los términos y mediante los procedimientos establecidos en la Ley de Reorganización Ejecutiva de 1993.

#### Artículo 13.- Disposiciones Generales

Ninguna disposición de este Plan modifica, altera o invalida cualquier acuerdo, convenio, reclamación o contrato que los funcionarios o empleados responsables de los organismos o programas que por este Plan se adscriben al Departamento hayan otorgado y que estén vigentes al entrar en vigor el mismo. Cualquier reclamación que se hubiere radicado por o contra dichos funcionarios o empleados y que estuviere pendiente de resolución al entrar en vigor este Plan subsistirá hasta su final terminación.

Todos los reglamentos que gobiernan la operación de los organismos o programas que por este Plan se reorganizan o que estén vigentes al entrar en vigor dicho Plan, continuarán vigentes hasta tanto los mismos sean alterados, modificados, enmendados, derogados o sustituidos.

Se garantiza a todos los empleados regulares de carrera en las agencias afectadas por este Plan, los empleos, los derechos, los privilegios y sus respectivos *status* en lo tocante a cualquier sistema de pensiones, de retiro, o fondos de ahorros y préstamos a los cuales estuvieran acogidos al entrar en vigor este Plan.

Cualquier ley o parte de ley en vigor que sea contraria a lo dispuesto en este Plan de Reorganización, queda derogada.

**Artículo 14. Vigencia**

Este Plan de Reorganización entrará en vigor inmediatamente después de su aprobación. El Gobernador queda autorizado para adoptar las medidas de transición que fueren necesarias a los fines de que se implanten las disposiciones de este Plan sin que se interrumpan los servicios públicos y demás procesos administrativos de los organismos que forman parte del Departamento. Las acciones necesarias para cumplir con los propósitos de este Plan deberán iniciarse dentro de un período de tiempo que no excederá de treinta (30) días calendario después de aprobado el Plan, en coordinación con y con el asesoramiento de la Oficina de Presupuesto y Gerencia.

.....  
*Presidente de la Cámara*

.....  
*Presidente del Senado*

(P. de la C. 2576)

## **Ley 31**

**14 DE ENERO DE 2000**

Para adicionar un inciso (p) al Artículo 5 de la Ley Núm. 23 del 20 de junio de 1972, según enmendada, conocida como "Ley Orgánica del Departamento de Recursos Naturales y Ambientales", a fin de facultar al Secretario del Departamento de Recursos Naturales y Ambientales a reglamentar la protección, manejo y conservación de los humedales de Puerto Rico.

### **EXPOSICION DE MOTIVOS**

Los humedales de Puerto Rico constituyen un recurso natural de alto valor que debe ser preservado para beneficio de ésta y futuras generaciones. Se definen como áreas transicionales entre sistemas acuáticos y terrestres frecuentemente inundados o saturados por aguas superficiales y subterráneas durante un período de tiempo suficiente como para que empiecen a ocurrir unos cambios en el suelo que los capacita a crecer un tipo de vegetación, especialmente adaptada a vivir en estas condiciones.

En Puerto Rico se ha reconocido la existencia de siete diferentes tipos de humedales: el acuático marino, planicies costeras de agua salada, ciénaga de agua salada, pantanos de agua salada, acuático de agua dulce, ciénaga de agua dulce y pantano de agua dulce. Estos sirven de hábitat a una gran variedad de especies de peces, aves y mamíferos que tienen gran importancia en la ecología isleña.

Uno de los humedales de mayor importancia y que más abunda en la Isla son los manglares. Estos son de importancia para la pesca comercial y para uso recreativo y educativo. Especies de peces de agua de gran valor comercial pasan parte de su ciclo de vida en los manglares. Investigaciones realizadas han revelado que los manglares en su función de evapotranspiradores suplen de humedad a la atmósfera y se convierten en una fuente de enfriamiento natural para las comunidades vecinas, producen grandes cantidades de oxígeno y protegen los litorales de vientos huracanados, entre otros beneficios. Sin embargo, el progreso económico que se está desarrollando en nuestras costas no es compatible con la preservación de este vital recurso natural.

La conservación y preservación de los humedales es un asunto de primordial importancia que amerita reglamentación por parte de Departamento de Recursos

**Naturales y Ambientales.** La función de éstos como viveros de peces, hábitats para la vida silvestre, su contribución en la mitigación de inundaciones y la reducción de la contaminación, los hacen lugares atractivos para la recreación pasiva, la investigación científica, la educación y el turismo.

Esta Ley tiene el propósito de facultar al Secretario del Departamento de Recursos Naturales y Ambientales a reglamentar la protección, manejo y conservación de los humedales de Puerto Rico, reconociendo su incalculable valor como un recurso natural más de nuestra Isla.

***DECRETASE POR LA ASAMBLEA LEGISLATIVA DE PUERTO RICO:***

**Sección 1.**-Se adiciona un inciso (p) al Artículo 5 de la Ley Núm. 23 del 20 de junio de 1972, según enmendada, para que se lea como sigue:

"Artículo 5.-

El Secretario del Departamento de Recursos Naturales y Ambientales tendrá, en adición a las que le son por esta ley transferidos, las siguientes facultades y deberes:

(a) . . .

(p) facultad para reglamentar la protección, manejo y conservación de los humedales de Puerto Rico."

**Sección 2.**-Esta Ley comenzará a regir inmediatamente después de su aprobación.