



# El Coquí Herald

## Environmental Technical Highlights By Specco Environmental

### THIS MONTH:

#### **DNER Promulgates New Regulation for the Extraction, Excavation, Removal and Dredging of Earth Crust Components**

On December 15, 2004 the Department of Natural and Environmental Resources ("DNER") promulgated the new Regulation for the Extraction, Excavation, Removal and Dredging of Earth Crust Components (hereinafter "the Regulation"), in order to substitute Regulation No. 2305, approved on October 10, 1977 and amended on November 24, 1986. The Regulation was filed at the Puerto Rico State Department on December 16, 2004 as Regulation No. 6916, and became effective on January 17, 2005.

The new Regulation incorporates in one single document a number of provisions and procedures contained in DNER Administrative Orders and/or established through amendments to Act No. 132 of June 25, 1968, as amended (known as the "Sand, Gravel and Stone Act"). In general, the Regulation modifies the existing permit structure and permit exemption provisions, add substantial provisions and requirements for the use of explosives and includes a complete section related to the environmental review process.

**New Permit Structure:** The new Regulation reorganized the permit structure and included new permits for activities previously covered by permit exemption provisions. As a result, activities previously exempted are now required to obtain an extraction permit. Following is a brief description of the different type of permits under the new regulation.

#### **Simple Permits (Article 4) - *Simple permits are required for any extraction activity:***

- for activities associated with the removal of top soil or vegetative cover for survey activities, borings, creation and maintenance of access roads, and which exceed 500 cubic meters of any earth crust component.

**Permit Exemptions (Article 10) - *Permit exemptions are limited to extraction activities, which are considered insignificant.*** Those activities are only:

- maintenance of access roads, and which do not exceed 500 cubic meters of any earth crust component;
- activities incidental to the construction of water wells;
- activities related to the maintenance and repair of private and/ or public infrastructure;
- activities associated with agricultural practices and/or development of agricultural infrastructure; and
- removal of material from ponds used for retention, mitigation, and sedimentation in order to reestablish their design capacity and when they are part of an approved project.

Permits for Activities Incidental to ARPE Approved Projects (Article 5) - Under the new Regulation, incidental extraction activities are no longer authorized through a permit exemption. Now, a permit application will be filed at the DNER in compliance with Article 5 provisions.

**A permit fee will be paid according to the estimated project cost ( \$75 for up to \$250,000, \$375 from \$250,000 to 1,000,000 and \$750 for projects in excess of \$1,000,000 )**

- If the incidental activity produces an excess material to be sold for commercial purposes, the activity should be authorized under a Formal Permit.
- Activities associated with the removal of topsoil or green cover for survey activities, borings, creation and options to prevent contamination, by December 30, 2004. In response to T&G's initiative, the SWA granted companies, which are members of the Puerto Rico Manufacturers' Association ("PRMA") a sixty-(60) day extension, starting from December 31, 2004, to comply with this requirement. With the 60-day extension granted, PRMA members were to submit the pertinent documents by March 1, 2005.

Additional changes are being made to the Formal Permit for Extraction Activities and the Puerto Rico Water Resources.

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