



GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

No. 45 Estate Mars Hill, Frederiksted St. Croix, Virgin Islands 00841

I. Notice of the Department of Planning and Natural Resources' (DPNR) intent to establish an Intended Use Plan for the United States Virgin Islands under the Federal Water Pollution Control Act (P.L. 92-500) also known as the Amended Clean Water Act (CWA)

II. DATE OF NOTICE: December 21, 2020

III. DESCRIPTION OF CWA REQUIREMENTS
The Clean Water State Revolving Fund (CWSRF) was established by the 1987 amendments of the Clean Water Act (CWA) for a wide range of water infrastructure projects under 33 U.S. Code §1383. The Environmental Protection Agency (EPA) is tasked with making capitalization grants to each state and territory to help finance the costs related to the construction of municipal wastewater facilities, control nonpoint sources of pollution, build decentralized wastewater treatment systems and fund other water quality projects.

The Virgin Islands Municipal Project Priority System (PPS) has been developed to set priorities for the management of federal funds for wastewater and stormwater treatment projects which are eligible for federal aid. The proposed projects are first rated, and then ranked by rating to form the Project Priority List (PPL). Only those projects which are ranked according to the criteria of the PPS may receive federal grant assistance. The PPS consists of a variety of criteria and rules for their application. In accordance with the provisions of the Clean Water Act (CWA) as amended in 1987, federal aid will be distributed to proposed projects on the basis of the rules of the PPS, position on the PPL, and the availability of funds.

Through the fiscal year 2019 funds provided by the CWSRF, \$4,950,000.00 will be available to the US Virgin Islands for implementing these infrastructure projects. DPNR and its partners developed the proposed Intended Use Plan (IUP) for the 2019 Clean Water Construction Grant (CWCG) funds allotted to the U.S. Virgin Islands pursuant to the CWA and solicits public comments on this document.

DPNR may amend the IUP with other ready projects listed on the PPL, as needed to protect public health, or to meet emergency needs in the U.S. Virgin Islands.

IV. HOW TO OBTAIN A COPY OF THE PROPOSED 2019 CWCG IUP OR REVIEW THE ADMINISTRATIVE RECORDS

A copy of the proposed 2019 CWCG Intended Use Plan is provided below.

The administrative records containing background technical information are on file and may be inspected at the Division of Environmental Protection office between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except holidays. Arrangements to examine the administrative record may be made at the following addresses.

Table with contact information for Department of Planning & Natural Resources, Division of Environmental Protection, 45 Mars Hill, Frederiksted, VI 00840, and Charles Wesley Turnbull Regional Library, 4607 Estate Tutu, St. Thomas, VI 00802.

V. REQUEST FOR PUBLIC COMMENT
This notice announces the availability of the proposed 2019 CWCG IUP for a forty (40) day public comment period. The forty days will begin on December 22, 2020 and end on January 31, 2021. No comments will be accepted after 5:00pm on January 31, 2021.

The public is asked to provide comments on the intended use of the monies as detailed in the IUP. Comments can be sent via email to harold.mark@dpnr.vi.gov or to the addresses above. Your comments will be taken into consideration for the finalization of the IUP.

VI. DPNR'S RESPONSE TO COMMENTS
Following the close of the 40-day comment period, a written response to comments and petitions will be developed as soon as possible. All petitions and comments received during the public notice period will be considered. This response to comments and petitions will be available to the public in the same manner as today's notice.

SEE PROPOSED 2019 CWCG INTENDED USE PLAN BELOW

TERRITORY OF THE VIRGIN ISLANDS

**DEPARTMENT OF PLANNING & NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION**

TERRITORIAL CLEAN WATER CAPITAL IMPROVEMENTS GRANT PROGRAM



**FISCAL YEAR 2019
INTENDED USE PLAN,
PROJECT PRIORITY SYSTEM,
AND
PROJECT PRIORITY LIST**

July 2020

Table of Contents

I. INTRODUCTION	1
II. FUNDING	2
III. PROGRAM OVERVIEW	2
IV. FINANCIAL OVERVIEW	3
V. ADMINISTRATIVE PROCEDURES	3
VI. PROJECT PRIORITY SYSTEM	4
VII. PROJECT RANKING CRITERIA	4
VIII. LISTING A PROJECT	5
IX. SEGMENTATION & PHASING.....	6
X. PRIORITY RANKING SYSTEM.....	7
XI. USE OF THE PRIORITY LIST	8
XII. PROJECT FUNDING LIST.....	10
XIII. RESERVE FUNDS.....	10
XIV. PUBLIC PARTICIPATION REQUIREMENTS	11
XV. THE VIRGIN ISLANDS PROJECT RATING SYSTEM	11
Appendix A.....	21
Appendix B.....	22
Appendix C.....	23
Appendix D.....	25
Appendix E.....	26

I. INTRODUCTION

The Clean Water Title II Construction Grant Program (CGP) was established by the United States Congress in 1972 to further the construction of municipal wastewater treatment plants (WWTPs). The 1987 amendments of the Clean Water Act (CWA) established the Clean Water State Revolving Fund (CWSRF) for a wide range of water infrastructure projects under 33 U.S. Code §1383. The Environmental Protection Agency (EPA) allots a portion of the CWSRF funds to the District of Columbia and the Territories for the use as CWA Title II Construction Grants. EPA is tasked with making capitalization grants to each to these jurisdictions to help finance the costs related to the construction of municipal wastewater facilities, control nonpoint sources of pollution, build decentralized wastewater treatment systems and fund other water quality projects. Through an annual grant provided by the CWSRF during fiscal year 2019, **\$4,950,000** will be available to the US Virgin Islands for implementing these water infrastructure projects.

In the US Virgin Islands the CWCGs are administered by the Department of Planning and Natural Resources - Division of Environmental Protection (DPNR/DEP) through the Virgin Islands Clean Water Capital Improvements Grant (VICWCIG) program. An annual Intended Use Plan (IUP) is required by Title VI of the CWA and is an integral part of the process to request the Federal Fiscal Year (FY) 2019 Capitalization Grant.

DPNR/DEP, acting on behalf of the Government of the Virgin Islands as the authorized grant administrator, hereby submits to the U.S. Environmental Protection Agency this Intended Use Plan (IUP) for the federal FY 2019 allotment to the territory. The IUP describes the use of the grant monies by the Virgin Islands' CWCIG program to meet the objectives of the CWA and further the goal of protecting public health. Specifically the IUP establishes program goals, administrative procedures, the Project Priority System (PPS), Project Priority List (PPL) and Project Funding List (PFL).

The FY 2019 Intended Use Plan has been developed to set priorities for the management of federal funds for sewage treatment projects which are eligible for federal aid. The proposed projects are first rated, and then ranked to form the PPL and PFL. Only those projects which are ranked according to the criteria of the PPS may receive federal grant assistance. These capital improvement projects must be able to achieve and maintain compliance with CWA Construction Grants for Wastewater Treatment Works (P.L. 92-500 as amended) requirements and further the water quality protection objectives of the CWA. The PPS, as described below, consists of a variety of criteria and rules for their application. In accordance with the provisions of the CWA, federal aid will be distributed to proposed projects on the basis of the rules of the PPS, position on the PPL/PFL, and the availability of funds.

The Project Priority System is designed to reflect the priorities of both the Federal and Territorial (State) governments in achieving clean water. Enforcement activities will be consistent with those priorities. The Federal Clean Water Act required that all publicly owned treatment works (POTWs) achieve compliance with the effluent limitations

applicable to their discharge by July 1, 1988. Additionally, in 1987 the CWA was amended to require EPA to establish a program to address storm water discharges. Compliance strategies specific to each of these types of facilities are required from the Virgin Islands Waste Management Authority (VIWMA) and Virgin Islands Department of Public Works (VIWMA/VIDPW). These strategies detail the activities which are to be undertaken to attain compliance with the Clean Water Act.

Once a project is selected and a grant awarded, there is a maximum of seven (7) years to complete the project, as indicated in EPA's Un-liquidated Obligations Policy (Office of Management and Budget Circular A-123 and Resource Management Directive (RMDS) 2520-03-P1 (Administrative Control of Appropriated Funds), which became effective on October 1, 2010.

EPA may terminate the assistance agreement at any time for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.

II. FUNDING

Federal participation will be in accordance with Title VI, State Revolving Funds (SRF) allocations.

The cost associated with capacity beyond that needed for wastewater projects actually occurring (including presently unsewered areas to be served by the proposed project) on the date of certification will be ineligible for federal assistance. Funds for the FY 2019 Project Priority List (PPL/PFL) can come from three sources:

1. State Revolving Fund Title VI Federal Water Pollution Control Act appropriations to V.I.
2. Funds through Special Congressional Appropriations (SAAP grants).
3. The Virgin Islands participation under Territorial Legislative Authority Appropriations.

III. PROGRAM OVERVIEW

DPNR/DEP must apply for the CWSRF grant(s) allotted to the U.S. Virgin Islands. In order to identify the projects that will be funded under the program "call for projects" letters/emails and/or pre-application forms requesting project proposals are issued to VIWMA and VIDPW. All submitted proposals will be tentatively rated in accordance with the PPS described in *Section XV. THE VIRGIN ISLANDS PROJECT RATING SYSTEM* and

entered on the appropriate PPL.

DPNR/DEP will prepare an Intended Use Plan (IUP) for grant monies provided by the CWSRF allotment(s). The IUP will describe how the Territory proposes to use the available funds. The IUP will include the program goals, administrative procedures, PPS, PPL and PFL.

DPNR/DEP will use the CWCG money for both project expenditures and administrative expenditures. DPNR/DEP is authorized and intends to use 4% of the grant for administration of the program. The non-project expenditures provide for activities that are not construction related and include costs associated with the administration of the VICWCIG program and providing technical assistance to grant Subrecipients (VIWMA/VIDPW). Project expenditures involve the costs associated with the planning, design, materials, equipment, and construction of the capital improvement projects.

IV. FINANCIAL OVERVIEW

A. PROJECT FUNDS AVAILABLE

Tables 2 and 3 below indicate the total amount of monies made available to the VICWCIG program from grants provided by the CWSRF during FY2019. Also indicated are the amounts which will be used for projects, administration, and the green infrastructure reserve.

Table 2: Sources of Capitalization Grant

Sources	Amount
FY2019 Allotment	\$4,950,000.00

Table 3: Uses of Capitalization Grant

Uses	FY2019
4% CWCIG Program Administration	\$198,000.00
96% Infrastructure Assistance	\$4,752,000.00
Green Infrastructure Reserve (<i>Optional</i>)	\$0.00
Total	\$4,950,000.00

V. ADMINISTRATIVE PROCEDURES

DPNR/DEP will use the following procedures in administering the Clean Water Capital Improvement Grants:

1. DPNR/DEP will develop an Intended Use Plan for the NEPA approved projects submitted by VIWMA and VIDPW for each annual federal construction grant allotment.

2. DPNR/DEP will conduct technical review of the Engineering Plans & Design and Environmental documents submitted by VIWMA and VIDPW. Approved plans & design will be submitted to EPA Region II for an environmental decision to be made in accordance with the NEPA process.
3. DPNR/DEP will prepare an Intended Use Plan on an annual basis. The IUP will include the PPS, PPL and PFL for current and future funding allotted to the U.S. Virgin Islands.
4. All IUPs will be subject to a thirty (30) day public comment period. DPNR/DEP will provide information on the calculation of the priority score of a project upon request.
5. DPNR/DEP may amend a PPL/PFL and IUP to include a project requested by VIWMA or VIDPW, as needed to protect public health or to meet emergency needs.
6. The construction cost for projects will be financed only after the execution of a Subaward Grant Agreement and the documents for payments are approved by DPNR.
7. If available monies are not used by the projects identified on the PFL within a specified time (*see section XI. USE OF THE PRIORITY LIST*), those funds will be made available to the next highest ranked project listed below the funding line or to projects amended to the PFL that are deemed ready to proceed.

VI. PROJECT PRIORITY SYSTEM

The PPS and its resultant list is a management tool for the federal, state, and local governments to plan, budget, fund, and generally oversee the construction grants program within the current federal fiscal year. In the Virgin Islands the primary purpose of that program is to provide federal assistance funds to help the VI Government eliminate water pollution problems and meet the requirements of the Territorial Pollutant Discharge Elimination System (TPDES) permits. Except as provided by the special reserves described below, no grants may be made unless the need for a project has been ranked, in relation to other projects in the state, using this management tool. The basis in law for these activities is Appendix A to this document; other references are contained in Appendix B.

VII. PROJECT RANKING CRITERIA

All projects are rated and entered into the PPL based on the following criteria (*Criteria may be revised depending on changing priorities and new program requirements*):

1. The nature of existing conditions which require correction.
2. The value of the natural resource in need of protection and/or improvement, the severity of impairment to the quality and use of the resource, and the probable results of the proposed project in terms of restoration of beneficial uses and/or protection of public health.

3. The need to maintain an on-going and progressive water quality program.

Each of the above criteria includes several sub-criteria or factors. Criteria which cannot be considered in rating include: a project's location within the Virgin Islands, financial hardship, future population growth, and development needs not related to pollution abatement.

Under each factor in criteria 1 through 3, a numerical score is calculated or assigned for each project. The project's rating is the sum of those scores. Using these criteria, the higher rating will apply to the project with the more severe problem, the more substantial potential improvement, the greater prior commitment, and the more imaginative solution.

Each operable project (which some cases may be part of a larger system) is scored on its own merits based on the existing conditions which it is designed to correct. This numerical rating and a project's readiness-to-go date, all determine the placement of the project on the priority list.

VIII. LISTING A PROJECT

A. Identification. When potential subrecipients decide to seek federal assistance for the correction of wastewater treatment problems, they should contact the Virgin Islands Department of Planning and Natural Resources. The project will be tentatively rated in accordance with the PPS. That rating will give to potential subrecipients an indication of when and/or if federal funding can be anticipated. If the potential subrecipient decides to pursue construction grants assistance, the project will be entered on the appropriate portion of the next PPL after approval of a Plan of Study.

B. Pre-Award Schedule. Each project to be considered for funding on the PPL must have a schedule for completion of all items prerequisite to grant award. Potential projects without the pre-award schedule will be carried on a planning list, but not tracked for consideration for construction. Failure to adhere to scheduled dates shall cause the project to be bypassed for funding and referred to enforcement authorities for appropriate action.

C. Deadlines.

1. **FACILITY PLAN.** Subrecipients can request DPNR to waive the facility plan under certain conditions such as the preparation of an Environmental Impact Statement on the project. An Environmental Assessment (EA) is required under NEPA for all projects expecting to receive funds from EPA. A Finding of No Significant Impact (FONSI) or categorical exclusion may apply accordingly in accordance with USVI Territorial Law.

2. **APPLICATIONS.** Complete applications for a grant, including all supporting documents (see Appendix C), must be submitted to the DPNR for revision by the submission date agreed upon with EPA.

D. Minimum Score. DPNR can establish a minimum score for the inclusion of a project on the funding list. The minimum score is based upon an examination of the entire PPL and a comparison of identified needs and projected resources.

E. STEP 1 & 2. There is no more Step 1 (planning) or 2 (design) grants. However, allowances may be made to subsidize the design phase of various projects through the State Revolving Fund (SRF).

F. STEP 2+3. In order to maximize the effectiveness of the limited construction grants funds, Step 2+3 grants allow subrecipients to include in the contractual budget line items a design allowance besides the construction costs for the project.

IX. SEGMENTATION & PHASING

A. Segmentation. Because of the severe limitation of available funds, DPNR/EPA will, where necessary and permitted by federal regulations, defer project segments. **A project segment normally consists of one or more construction contracts.** This mechanism allows for a wider distribution of available funds island-wide to achieve maximum progress toward overall water quality benefits. The procedure will be as follows: (a) DPNR/EPA will review later projects to determine whether there exists a logical segment or combination of segments that meet the EPA regulations governing phasing/segmentation (see Appendix D). (b) Selection of segments to be included on the fundable portion of the PPL will be based on the DPNR/EPA's judgment of the importance of the segment and the relative amounts of funding required for each. The grant amount indicated for each segment on the fundable range will provide the full federal share of all work to be performed under the contracts which constitute that segment. (c) Remaining segments, which meet all requirements for inclusion on the funding list will be shown as deferred. (See Paragraph VII.B.2.)

B. Phasing. Segmentation may not be practical for some projects which meet the criteria described in Appendix D. Phased Funding, which is a special funding arrangement requiring USEPA approval on a case specific basis, may be available for these projects. However, such availability will be limited to cases where there is reasonable assurance that remaining phases will be on the fundable range of subsequent Project Priority Lists in years for which funding is authorized in the Federal Clean Water Act.

In the phased funding approach, subrecipients would be authorized to proceed with construction of a large contract but receive a grant award only large enough to meet the contract cash flow needs for that fiscal year. The contract cash flow needs for future years would be provided by subsequent increases to that grant if sufficient grant funds are available. The priority list will address "phases" in the same manner as deferred

segments; that is funding will be governed by funds available on the priority score of the project. Subrecipients must be aware that this approach will require them to make a commitment to complete all work in the phase funded contract without an assurance of future grants funding to complete the contract. Therefore, prior to EPA approval of phased funding, subrecipients will be required to demonstrate financial capability to satisfactorily complete construction regardless of the availability of grant assistance. The details of each case must be worked out well in advance with the active involvement of all parties (Subrecipients, DPNR, and EPA).

X. PRIORITY RANKING SYSTEM

A. The Lists. All projects are rated on a numerical point system which is described below. This list is separated into three parts: funding, deferred segments and planning.

1. *The Funding Portion* includes all projects (and project segments or phases) with completed facility plans which meet a minimum score requirement listed in descending priority order which have demonstrated by their pre-award schedule that they will be ready for certification for grants during the period in which the federal funds addressed by the PPL will be available (see Paragraphs V.C and V.D). This is further sub-divided into two parts, fundable and non-fundable, i.e., above or below the funding line. Projects above the funding line will be certified as soon as they are complete and approvable and the federal funds are available to the state. Projects below the funding line will have to await additional funds or the bypassing of higher ranked projects.
2. *The Deferred Segments* are shown on the funding portion of the list by zero (0) under grant amount. It includes all projects segments or phases which are expected to be ready for funding within the funding period, but which are deferred to a later year because of inadequate federal funds to otherwise maintain a viable island-wide program. Project segments or phases which are deferred will be considered for funds released by bypassed projects and will appear on the funding portion of subsequent project priority lists with all other projects expected to be ready to go within the operative period of those lists.
3. *The Planning Portion* is a separate listing containing active program participants, (i.e., all other projects in the construction grants program with executed Pre-Award schedules and generally satisfactory schedule performance.) As the facility

plans for these projects are approved and they become ready for consideration for certification for grant funding they will be placed on the funding portion of future PPL's if they meet the minimum score for those years.

B. Exception: Extreme Health Hazard. Based upon the imminence of an extreme health hazard, subrecipients may request a change in a projects ranking such that it will be ranked highest on the PPL (based on the status or prerequisites described above)

regardless of its priority score. Such an application will be considered by DPNR for recommendation to the Regional Administrator of EPA, if and only if, its submission is accompanied by an Order of the Department of Health, DPNR or a Court of competent jurisdiction which, among other things;

1. Declares that there is an imminent, extreme health hazard.
2. Determines that the construction of a municipal sewage treatment works project or portion of a project is both essential to alleviate the hazard and the only feasible means of doing so.
3. Directs construction to proceed forthwith on a specified schedule irrespective of the availability of grant assistance from any source.
4. Mandates the payment of substantial penalties for failure to achieve the various milestones set forth in the schedule.

XI. USE OF THE PRIORITY LIST

- A. EPA Review.** The final list is submitted to EPA and is reviewed for procedural completeness.
- B. Obligation of funds.** After EPA approves the list, obligation of funds may proceed.
- C. Project bypass.** Complete and approvable grant applications, including all supporting documents (see Appendix C), must be submitted to the Department of Planning and Natural Resources. Projects which are withdrawn by the Applicant or do not meet critical dates on their Pre-Award schedule, or fail to meet deadlines will, upon written notice to the subrecipients, be bypassed. Each segmented and/or phased project is required to have a schedule for completion of all work necessary to assure that the funded segment or phase can achieve operation in accordance with TPDES permit requirements. This schedule must be acceptable to those responsible for administration of the TPDES permit. The Federal Clean Water Act requires that all publicly owned treatment works achieve compliance with the effluent limitations applicable to their discharge by that date, without regard to the availability of federal financial assistance. If such a schedule has not been accepted by enforcement authorities the project will be bypassed.

The use of funds released through bypassing will follow this protocol:

1. Deferred segments and phases.
2. DPNR will amend the funding list to the extent that funds are made available from having a project bypassed. The amendment will address high priority projects from

- the planning portion of the list which have progressed more quickly than anticipated, and meet all conditions applicable to other projects on the funding list.
3. Lower ranked projects (in order of descending priority score) for which a complete and approvable application including all supporting documents has been filed.

If, on the deadline date, insufficient complete applications are on hand, funds will be distributed to other projects to prevent loss of funds from the program.

A project which is bypassed will retain its priority rating, and with a revised schedule (agreed to by the subrecipients, consultant, and DPNR) will take its appropriate position on the appropriate portion of the PPL for the following year (See Deadlines, Paragraph V.C.I.), based on its priority score. A bypassed project will receive further consideration in the year bypassed only if the available funds are not fully utilized by other projects which did meet the deadline.

D. Project Cost. The Priority List shows the funds which have been designated for each project, and DPNR expects that the grant request included in any application will not exceed that amount. If the grant application exceeds the funded amount shown on the Priority List, a detailed explanation of the reason must accompany the grant application. Until acceptance of this explanation, the application will not be considered complete and approvable and the project will not be certified. If the higher request is accepted, the potential for re-scoping (phasing/segmenting) the project will be evaluated. If re-scoping is not appropriate, the use of funds from the reserve for grant increases could be considered.

If sufficient funds are not available to fund the higher estimate, and if re-scoping is not appropriate, the project will be bypassed. If the grant application is certified at an amount less than the amount designated for the project, the extra funds will be used in accordance with the protocol described in the above project by-pass provision (see Paragraph VIII.C).

E. Priority List Update. DPNR will review the progress of each project on the entire priority list on a monthly basis. Projects may be added to, or removed from the funding portion of the list at any time, subject to acceptance by the EPA Regional Administrator. Significant modifications (those that may jeopardize the funding of a project above the funding line) can only be made in accordance with the public participation requirements (see Paragraph X). An annual review of the score will be made for each project prior to submission of the list to EPA for the next fiscal year. Furthermore, each completed facilities plan should be reviewed to determine if the previously calculated score is supported. Prior to the facilities plan approval the priority score will be recalculated and if necessary, the project priority list will be modified accordingly.

F. Removal from List. A project will be moved from the funding to the planning portion of the priority list for the reasons cited in paragraphs V.B-C, and VIII.C-E. It may also be removed from the priority list if any of the following conditions are met:

1. Except as described in Paragraph G below, the Regional Administrator of EPA determines after a public hearing that the project is not needed to comply with the enforceable requirements of the act.
2. The project is otherwise ineligible.
3. Or the project is no longer viable.

XII. PROJECT FUNDING LIST

The CWCG Project Funding List, based on the priority ranking system, identifies the capital improvement projects which are likely to be funded during the grant period of the grant award to the territory. All projects on this list were thoroughly reviewed by DPNR/DEP, received an environmental decision (CATEX or FONSI), and subjected to the public review process.

Sub-Recipient	Rank	Points	Project Title	Project Descriptions	Estimated Assistance Amount
VIWMA	7	102	Anna's Retreat (formerly Old Tutu) Collection System Phase 1A/B	Replace damaged and deteriorated sewer lines and laterals; Rehabilitation of manholes.	\$1,218,464.00
VIWMA	7	102	Anna's Retreat Collection System Phase 2A/2B (Triumph Rd, Jasmine Rd, Olson and Nancy St)	Replace damaged and deteriorated sewer lines and laterals. Rehabilitation of manholes.	\$1,643,796.00
VIWMA	7	102	Annas Retreat Collection System Phase 3A/B (Flambouyant Avenue)	Replace damaged and deteriorated sewer lines and laterals. Rehabilitation of manholes.	\$1,123,166.00
VIWMA	7	102	Annas Retreat Collection System Phase 6A Partial (Tamarino)	Replace damaged and deteriorated sewer lines and laterals. Rehabilitation of manholes.	\$766,574.00
Total Estimated Assistance Amount					\$4,752,000.00

XIII. RESERVE FUNDS

From the total allotment of construction grants funds to the Virgin Islands there are several portions set aside (or reserved) for special purposes.

A. Green Infrastructure. Title VI requires that, to the extent there are sufficient eligible project applications, not less than 20% of the funds provided for projects be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities.

B. Buy American. The appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States unless (a) a waiver is provided to the recipient by EPA or (b) compliance would be inconsistent with United States obligations under international agreements. In order to receive a waiver, the VIDPNR must send a written request to the Administrator. A decision will be made based on the following criteria:

- The requirement is inconsistent with the public interest for purposes of the project, for which a waiver has been requested.
- Iron, steel, and necessary manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
- Or inclusion of iron, steel, and manufactured goods produced in the United States will increase the overall cost of the project by more than 25 percent.

If a waiver is granted by the Administrator, EPA will publish such waiver with a sufficient explanation in the Federal Register. EPA will provide additional guidance on this provision as it becomes available.

XIV. PUBLIC PARTICIPATION REQUIREMENTS

The Construction Grants program is large and complex. It is because of the large number of projects, the grants process is necessarily a dynamic one. The Priority System provides the mechanism to manage funds and award grants fairly, in accordance with the priorities of the CWA. The Department of Planning and Natural Resources encourages the public to make written and telephoned comments at any time that information relevant to the program is available.

Wide circulation of information about the Intended Use Plan (IUP) are required before DPNR submits the final document to EPA. Any significant revision of the IUP will require the same activities.

RESERVED FOR REPORT ON PUBLIC COMMENTS

XV. THE VIRGIN ISLANDS PROJECT RATING SYSTEM

Scoring in the Rating System

The numerical scores in the Virgin Islands Priority Rating System are based on the following criteria:

1. The existing conditions which cause the pollution.
2. The value of the resource to be protected and/or improved, the need for improvement, and the probable results of the proposed project.
3. Intergovernmental needs.

The total numerical score for the project or project segment being scored shall be the sum of the scores for Criteria A, B, and C.

Each project shall be re-scored annually to reflect the current problems which remain to be addressed by funding additional portions of the wastewater treatment system. The project score(s) will be computed based on information in the approved facilities plan (Sewer System Evaluation Study (SSES) for III correction projects). Projects without approved facilities plans will be scored based on information from other sources available to DPNR and the scores will be adjusted when a facility plan has been approved. DPNR intends to use 604(b) Funds to support the development of a VI Facilities Plan.

A. Existing Conditions Criterion

The proposed project should receive points allotted for whichever **ONE** of the following factors as defined below, best describes the **most** critical problem (contributing to the impairment of the use scored in Criterion B) to be corrected by the proposed project:

- 1. Untreated Sewage/Stormwater Discharge**
 - a) Identified in Municipal TPDES Permit 80 points
 - b) Not identified in a Municipal TPDES Permit 20 points
- 2. Type of Wastewater or Stormwater Treatment**

- | | |
|--|------------|
| a) Primary Treatment or Less i.e. No Treatment | 60 points |
| b) Intermediate Treatment/Manufactured Devices | 30 points |
| c) Secondary Treatment/Green Infrastructure | 10 points |
| 3. Combined Sewer Overflows
(Abatement necessary to meet water quality standards) | 30 points |
| 4. Failing Individual Systems or Conveyance Component | |
| a) Documented water quality degradation attributing to failing individual system(s) | 50 points |
| b) Formal notice of violation | 30 points |
| c) No formal notice | 20 points |
| 5. Excessive Flow to a Municipal Sewage Treatment Facility | |
| a) Water Quality Violations | 60 points |
| b) Average daily flow exceeds plant capacity | 30 points |
| c) Average daily flow does not exceed plant capacity | 10 points |
| 6. Unsuitable disposal of sludge and/or septage | 30 points |
| 7. Imminent failure | |
| a) Structural condition of sewer/stormwater collection systems | 70 points |
| b) Condition of equipment | 10 points |
| c) Structural condition of facilities | 20 points |
| 8. Municipal Pretreatment Program Needs
(Identified in an approved pretreatment program) | 100 points |

Definitions:

1. Untreated sewage/stormwater discharge - Untreated sewage/stormwater is discharged over extended periods of time. Intermittent overflows which are caused by rainfall are not included here, but for purposes of scoring will be treated as combined sewer overflow. Likewise, discharges from failing individual systems are not included here. However, if a substantial portion (10% or more) of the problem areas consists of individual raw sewage discharges, they may, in aggregate be considered a raw sewage discharge.

- a) A raw sewage/stormwater discharge identified in a TPDES permit or other enforcement instrument issued against VIWMA/VIDPW, receives 80 points.
 - b) A raw sewage/stormwater discharge which is not covered by a TPDES permit or other enforcement instrument requirement receives 20 points.
2. Type of Wastewater or Stormwater Treatment – At a Treatment Plant or Conveyance System.
- a) Primary Treatment (60 points) - The existing sewage treatment plant or stormwater conveyance system is designed to treat sewage or stormwater but removes less than 40% of the biological demand (BOD) or less than 60% of the suspended solids (SS) of the influent.
 - b) Intermediate Treatment/Manufactured Devices (30 points) - The existing sewage treatment plant or manufactured device is designed to treat sewage/stormwater but remove less than 75% of the biological oxygen demand (BOD) or less than 75% of the suspended solids (SS) from the influent.
 - c) Secondary Treatment/Green Infrastructure (10 points) - The existing sewage treatment plant or green infrastructure is designed to treat sewage/stormwater and receive more than 85% of the suspended solids (SS) and Biological Oxygen Demand (BOD) from the influent.
3. Combined Sewer Overflow (30 points) - Existing sewers transport both sewage and storm waters, and on occasion, rainfall discharges combined waste through an overflow without treatment.
4. Individual Systems - Sewage treatment works serve one or more principal residences or small commercial establishments and are neither connected into, nor part of, conventional treatment works.
- a) Areas where failing individual systems are causing a documented degradation in water quality, receive 50 points.
 - b) Projects where a significant number (generally 20%) of the individual systems were cited by the local health department as having failed and requiring corrective action, receive 30 points.
 - c) Areas where it is evident that significant numbers (generally 20%) of individual systems are unsatisfactory, but have not been officially cited by the health department receive 20 points.
5. Excessive Flow - Any condition which causes the design capacity of the municipal sewage treatment works to be exceeded, or any flow which is so great as to cause

operational problems generally associated with infiltration or inflow (I/I). Infiltration and inflow are mutually exclusive.

Infiltration is defined as water other than wastewater that enters a sewerage system (including sewer service connections) from the ground through such means as defective pipe joints, connections, or manholes.

Inflow is defined as water other than wastewater that enters a sewage system (including sewer service connections) nominal sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage.

- a) A project where the excessive flows attributable to I/I cause documented water quality degradation receives 60 points.
 - b) A project where excessive (I/I) causes the average daily flow to the treatment plant to exceed the plant capacity receives 30 points.
 - c) A project where the average daily flow does not exceed the plant capacity, but where infiltration/inflow causes operational or other problems, receives 10 points.
 - d) Note: Where treatment facilities were designed on the basis of the excess flow being removed the project shall receive the same point score as the treatment facilities.
6. Unsuitable Sludge/Septage Disposal (30 points) - Present method for disposal of sludge/septage has been cited through a formal enforcement instrument by the Virgin Islands Department of Health, EPA or DPNR as causing health, nuisance or environmental problems.
7. Imminent Failure - Documented evidence that major facilities have exceeded their useful life and are in danger of failure which would result in a major prolonged discharge of inadequately treated sewage, which cannot be corrected without major capital construction.
- a) Structural condition of sewer/stormwater collection systems (70 points) – A line inspection by the CCTV determines the structural integrity deterioration of an existing line and manholes.
 - b) Condition of equipment (10 points) – Facilities equipment are not in working condition and need to be upgraded. Including but not limited to instrumentation, pumps, and flow meters among others.

- c) Structural condition of facilities (20 points) – Pump Stations facilities or Conveyance Systems must be upgraded based on previous engineering inspections. Such as wet well, dry well, electrical system, plumbing system, building structural repairs, fencing among others.
8. Municipal Pretreatment Program Needs (100 points) - An approved local pretreatment program has identified eligible Step 3 facilities necessary to ensure that the following conditions are met:
- a) There is no pass-through of industrial pollutants which will cause water quality problems in the receiving waters.
 - b) There is no discharge of industrial pollutants to the municipal treatment works that will cause plant upsets.
 - c) There is no concentration of industrial pollutants in sludge which render the sludge unsuitable for disposal. Under the Water Quality Improvement Criterion, the project will be scored on the basis of the problem.

B. Water Quality Improvement Criterion (WQIC)

Based on the existing condition identified for Criterion A, points are allotted to a project on the basis of the state-assigned classification of the receiving water at the point of discharge or where higher, the classification of downstream surface water and the use of which is impaired by the existing discharge. The points are modified, dependent upon the severity of impairment of the desired best usage of the receiving water and the potential for the proposed project to improve water quality.

The WQIC is calculated using the following equation (where the acronyms are defined below):

$$\text{WQIC} = \frac{\text{CPF} + \text{IF} + \text{PIF}}{5}$$

(Note: For projects which receive points for "imminent failure", under the Existing Conditions Criterion, the WQIC situation which would be caused by such failure will be scored and be multiplied by 0.7 to reflect probability considerations.)

1. Classification Points Factor (CPF)

The classes and points allocations are as follows:

Points are allotted to a project on the basis of state-assigned classification of the receiving waters at the point of discharge or at an alternate location which would have a greater affect on downstream surface waters.

<u>Classification</u>	<u>Points</u>
<i>Class A</i>	
Preservation of natural phenomena requiring special conditions, such as the Natural Barrier Reef at Buck Island, St. Croix and the Under Water Trail at Trunk Bay, St. John.	70
<i>Class B</i>	
For maintenance and propagation of desirable species of aquatic life (including threatened, endangered species listed pursuant to section 4 of the federal Endangered Species Act and threatened, endangered and indigenous species listed pursuant Title 12, Chapter 2 of the Virgin Islands Code) and for primary contact recreation (swimming, water skiing, etc.).	50
<i>Class C</i>	
Other fishing; commercial harbors	20
Impairment of resource other than water (For projects which have important non-water quality impacts such as odor, sludge disposal etc.)	5

2a. Impairment Factor (IF)

The points allocated for the state-assigned classifications will be modified, dependent upon an assessment of the severity of impairment of the affected desired usage of the receiving water.

- 6 – Severe A desired usage is essentially eliminated or precluded.
- 4 - Moderate A desired usage is restricted.
- 2 – Slight A desired usage is marginally impaired.
- 1 – None No evidence of impairment of use.

2b. Impairment Factor (IF) - for Onsite Systems

For scoring non-water quality impacts of nuisances or other conditions associated with on-site waste water disposal systems, modification factors will be assigned as follows:

- 6 - Severe Continual or near-continual outbreak or discharge of sewage/stormwater to ground surface evidenced by readily visible sewage, septic effluent (blackwater) or stormwater runoff. Usage of property surrounding on-site systems is generally precluded.

- 4 - Moderate Continual or near-continual outbreak or discharge of graywater to ground surface; or septic effluent is present immediately below ground surface evidenced by blackened, odorous or saturated soil; or conditions similar to “severe” occur due to wet weather or flooding; or in-house waste plumbing is occasionally rendered unusable due to blockage.

- 2 - Slight Residents are not able to enjoy, full usage of their in-house plumbing or roadway system (i.e. curb and gutter sidewalks, etc.). Some problems, and/or nuisances occur during peak usage or stressed conditions.

- 1 – None No public health or nuisance condition is evident.

3. Potential Improvement Factor (PIF)

The points allocated for the state-assigned classification will be modified, dependent upon the potential for improvement of water quality related to the project being rated.

- 1 - No reduction in impairment level

- 2 - Reduced impairment by one level (e.g., moderate to slight)

- 3 - Reduced impairment by two levels (e.g., severe to slight)

- 5 - Reduced impairment by three levels (e.g., severe to none)

C. Intergovernmental Needs Criterion

Extra priority points are assigned to projects on the basis of governmental needs, requirements or mandates.

- 1. Segment or phase deferred from fundable range in prior year(s). 25 points

- 2. Project ready in prior year. Project was on funding list but below funding line. All grant application requirements (App. C) were completed by August 30 in that year. 15 points

- 3. Prior Step 3 grant awarded for a project or project 15 points

segment which is part of this waste system.
(Projects are physically or fiscally interconnected.)

- | | |
|--|-----------|
| 4. Required by condition in prior grant | 5 points |
| 5. Sewer connection and/or extension ban imposed by the direction of a federal or state regulatory agency | 10 points |
| 6. Abatement of sewage/stormwater discharge required by a TPDES Permit or other enforcement instrument | 25 points |
| 7. In addition to the permit(s)/enforcement instrument in factor 6, the project will also satisfy a TPDES Permit(s) or other enforcement instrument(s) requiring abatement of a sewage discharge held by a municipality other than the grant applicant | 10 points |
| 8. Provides for substantial use of Innovative Alternative Technology/Green Infrastructure | 10 points |
| 9. Provides for substantial resource recovery resulting in a clearly identified benefit to the public (off-site utilization) | 10 points |
| 10. Provides for substantial multiple-use points (recreation, education, etc.) | 10 points |

***The Point Total is limited in the following manner:

- Choose one of Factors 1 through 4, whichever is the highest, if the segment to be scored is necessary for proper operation and/or fiscal integrity of the parent project.
- Add additional points from all of Factors 5 through 10 which apply.

D. Tie Breaking

In the event of equal total scores, preference shall be given:

First: To the project using Innovative and Alternative (I/A) Technology; then if not resolved,

Second: To the project having the higher Existing Condition Criterion raw score; then if still not resolved,

Third: To the project receiving the higher Water Quality Improvement points.

**Virgin Islands Project Priority - FY 2012-2017
 Project Priority Score Sheet**

Project Number: _____ Agency Name: _____
 Project Name: _____
 Project Description: _____
 Cost: _____
 Eligible @ 100%: _____ Target Date: _____
 Eligible @ 55%: _____ Schedule Date: _____
 Ineligible: _____

SELECT ONLY ONE	A. Existing Condition Criteria		A. g
	1	Untreated Sewage/Stormwater Discharge	
	a)	Identified in Municipal Permit	80
	b)	Not identified in Municipal Permit	20
	2	Type of Wastewater or Stormwater Treatment	
	a)	Primary Treatment or less i.e. No Treatment	60
	b)	Intermediate Treatment/Manufactured Devices	30
	c)	Secondary Treatment/Green Infrastructure	10
	3	Combined Sewer Overflow	30
	4	Failing Individual System or Conveyance Component	
	Documented water quality degradation attributable to failing individual system(s)	50	
a)	Individual system(s)	50	
b)	Formal notice of violation	30	
c)	No formal notice	20	
5	Excessive Flow to MSTF		
a)	Water Quality Violations	60	
b)	Average daily flows exceed plant capacity	30	
c)	Average daily flows does not exceed plant capacity	10	
6	Unsuitable disposal of Sludge	30	
7	Inherent Failure		
a)	Structural condition of sewer/stormwater collection systems	70	
b)	Condition of equipment	10	
c)	Structural condition of facilities	20	
8	Municipal pretreatment Program needs	100	

B. Water Quality Criterion		B. g
Receiving Water Name		
Classification (CPF)		
	CLASS A	70
	CLASS B	50
	CLASS C	20
	Impairment of resource other than water	5
Impairment Factor		
	Severe	6
	Moderate	4
	Slight	2
	None	1
Potential Improvement Factor (PIF)		
	No reduction	1
	Moderate to slight	2
	Severe to Slight	3
	Severe to None	5
WQIC = (CPF + IF + PIF) / 5		g

C. Intergovernmental Needs: Criterion		C. g	
SELECT ONLY ONE	1	Segment deferred from prior year	25
	2	Project ready in prior year	15
	3	Previous Step 3 segment funded	15
	4	Required by condition of prior Grant	5
SELECT ALL THAT APPLY	5	Sewer connection extension ban	10
	6	Abatement of sewerage/stormwater discharge	25
	7	Permit and enforcement of TDPE Permit	10
	8	Innovative Alternative Technology/Green Infrastructure	10
	9	Provides substantial resource recovery	10
	10	Provides for substantial multiple use points	10

TOTAL SCORE: g

Score Determined By: _____ Date: _____
 Score Review By: _____ Date: _____
 Score Approved By: _____ Date: _____

Appendix A

BASIS IN LAW FOR PRIORITY SYSTEM & LIST

Clean Water Act of 1977 (P.L. 95-217)

Section 204 of the Act requires that the EPA Administrator must determine that "such works are in conformity with any applicable state plan under §303(e) of this Act" and "that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable state plan under §303(e) of this Act. . .

Section 303(e) of the Act requires that the Administrator shall approve any continuing planning submitted to him by the state which shall include "an inventory and ranking order of priority of needs of construction of waste treatment works required to meet the applicable requirements of Section 301 and 302." (§301 and §302 deal with effluent limitations).

The Administrator's authority over the state's priority system and list is tempered by §216 of the act which states in full, "Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that state, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this Act, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 percent of funds allocated to a State in any fiscal year under this title for construction of publicly owned treatment works in such State shall be obligated for those types of projects are referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year are otherwise eligible for funding in that fiscal year.

Appendix B

REFERENCES

1. Public Law 95.217, The Federal Water Pollution Control Act Amendments of 1977, especially §204, §205, §216, and §303.
2. Public Law 97.117, The Municipal Wastewater Treatment Construction Grants Amendments of 1981.
3. Public Law 111.5, American Recovery and Reinvestment Act of 2009.
4. 40 CFR 35. Subpart I: Construction Grant Regulations. February 17. 1984.
5. USEPA Memorandum, Guidance for State Priority Systems and List. November 30. 1983.
6. United States Virgin Islands Project Priority System and Project Priority List. May 26, 1999.
7. USEPA Memorandum, Award of Water Quality Management Planning Grants with Funding Appropriated by P.L. 111-5, the “American Recovery and Reinvestment Act of 2009”.

Appendix C

GRANT APPLICATION REQUIREMENTS

The following documents constitute the Step 3 application.

1. The standard application package for grants is form SF-424 A and SF-424B "Assurances Non-Construction Programs" along with EPA form 4700-4 "Pre Award Compliance Review Report for all Applicants Requesting Federal Financial Assistance". If sub-awards will be made, please include the signed sub-agreement(s). If transferring all the funds to another entity, please also submit a final Memorandum of Agreement or Operating Agreement that clearly explains the relationship between the agencies, a description on how the works will be conducted and how the payments will be made.
2. The documentation supporting costs claimed and other required forms and letters of intent. See list of supporting documentation included in the Step 3 Application Package.

The following items are also required and may be time consuming, requiring special attention.

3. A facilities plan including all necessary archaeological and environmental reports and flood plains and wetland mapping.
4. Transcript of the final NEPA public hearing which includes the environmental considerations, the alternatives discussed and the costs involved, together with responses to issues/questions raised at the hearing.
5. Evidence of completion of any prior grant conditions, if the entity holds previous grants with EPA.
6. An approvable set of plans and specifications suitable for bidding purposes, (not necessary for step 2+3 grant).
7. Copy of application which has been filed for all Territorial and Federal permits; a TPDES permit must be issued if the project creates any discharge.
8. Intergovernmental Review (A-95) Approval letters from the State and Regional (Area-wide) Clearinghouse.
9. A draft consulting engineering agreement for Step 3 services and the related 4700-4 and 4700-4 forms. Agreement on scope and price of services must be reached prior to application approval (not applicable for Step 3).

10. A signed "Certificate to Availability of Project Site" stating that all easements and properties have been acquired, or that an option to purchase has been acquired, or assurance that condemnation proceedings have been initiated.
11. An approved user charge system and sewer use ordinance.
12. An approved preliminary plan of operation (not applicable for Step 3).
13. Applicants for privately owned systems shall provide assurance of unlimited access to the system at all reasonable times for such purposes as inspection, monitoring, building, operation, and rehabilitation.
14. A project schedule through completion of construction.
15. For segmented projects, a schedule for completion of other necessary works to assure effective operation of the funded segment in accordance with TPDES permits requirements.
16. A Financial Capability Analysis.
17. A Minority Business Enterprises/Woman Business Enterprises (MBE/WBE) Policy Statement; designation of an MBE/WBE Officer, establishment of an MBE/WBE goal; and an MBE/WBE utilization plan. The policy goal of the MBE/WBE Programs is to assure that MBE and WBE are given the opportunity to participate in contract and procurement for supplies, construction, equipment and services under any EPA grant or cooperative agreement.

Appendix D

PHASE/SEGMENTATION REGULATION

The text of the regulation governing project phasing or segmentation follows:

§35.2108 Segmented treatment works.

"Grant funding may be awarded for a phase or segment of a treatment works, subject to the limitations of §35.2123, although that phase or segment does not result in compliance with the enforceable requirements of the Act, provided:

- a. The applicant agrees to complete the treatment schedule specified in the grant agreement regardless of whether or not grant funding is available for the remaining phases or segments;" and
- b. One or more of the following conditions exist:
 1. The federal share of the cost of building the treatment works would require a disproportionate share of the State's annual allotment relative to other needs or would require a major portion of the State's annual allotment;
 2. The period to complete the building of the treatment works will cover three years or more; or
 3. The treatment works must be phased or segmented to meet the requirements of a Federal or State court order."

The term "disproportionate share" as used in the above regulation has not been defined or delineated by EPA. Any facility (total interconnected and interdependent systems) involving total construction grants in excess of the disproportionate share could qualify for phasing and/or segmentation under the "disproportionate share" criteria.

Appendix E

EXPLANATION OF ABBREVIATIONS

*** used in Project Description***

ALT SYS	Alternative Systems
BMP	Best Management Practices
COL. con, COLL	Collector Sewers
CSO	Combined Sewer Overflow
FAC	Facilities
FONSI	Finding of No Significant Impact
FM	Force Main
FUTURE EXP	Future expansion
FNL TKS	Final Tanks
GEN	Generators
I/A Technology	Innovative and Alternative Technology
I/I Correction	Infiltration and Inflow
INT	Interceptor Sewers
INT EXT	Interceptor sewer extension
MBE/WBE	Minority Business Enterprises/Woman Business Enterprises
MOD, Mods	Modifications
ORF	Overflow Retention Facility
OS	Outfall Sewer
Pkg, Plant	Package treatment plant
Pretreat, PT	Program for the pretreatment of industrial discharges to sewer system
PS	Pump station
Rehab	Rehabilitation
Ret. Basin	Flow Retention Basin
SAWS	Small Alternative Waste Systems
Sewer Sep.	Separation of Combined Sewers
SM SYS&SW	Small Systems and Scavenger Waste
STP	Sewage Treatment Plant
STP-ADD	Additions to a STP
STP EXP	Expansion of a STP
STP MOD	Modification of a STP
STP Up	Upgrading of a STP's processes
STR	Structural
SW	Scavenger Waste