

The Virgin Islands Consortium

ABR VI Deal Releases HOVENSA From \$200 Million Tax Dispute With VI Government

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HOVENSA is currently in a dispute with the Virgin Islands Government over a \$200 million impasse that the VI Government, after conducting an audit, says HOVENSA owes it; however, if the ABR VI deal is ratified by the Senate and signed into law by Governor de Jongh, the payments would no longer be an obligation of the owners of HOVENSA, but rather ABR VI, as the latter company would assume all the debt as part of the Operating Agreement.

Details made available to *VI Consortium* by Senator Nellie Rivera-O'Reilly, revealed that in 2011 HOVENSA claimed refunds for corporate taxes it paid in prior years to the Government of the Virgin Islands (GVI); however, the Government contested and hired

an auditing company to conduct an audit of HOVENSA; and HOVENSA, in turn, hired an auditing company to review the status of GVI. Since then, the two parties have been entangled in a bitter dispute over who owes who.

The Government's auditor concluded that HOVENSA owed more than \$200 million in taxes; however, the way the ABR VI Agreement has been crafted, HOVENSA would be completely relieved from paying that money, Rivera-O'Reilly said, and that has not sat well with her and other members of the 30th Legislature.

"The Government of the Virgin Islands should pursue the tax audit and claim, and lien all assets," Rivera-O'Reilly told the *VI Consortium*.

She added: "The Virgin Islands Bureau of Internal Revenue has the ability to assess, levy and sell in order to collect taxes. If the Government maintains its claim supported by the audit, which I understand is valid, then it should not allow HOVENSA to walk away from the tax liability."

Governor de Jongh has been pressing senators to [quickly ratify the Operating Agreement](#) between the Virgin Islands Government and ABR VI, saying that time is "critical" and that his Administration had done its part in efforts to bring the HOVENSA refinery back online.

"Notwithstanding today's vote, the public can rest assured that my administration has done its part. We moved the owners of HOVENSA away from a position of shutdown in January 2012 to one of agreeing to sell. They hired an investment firm to manage the sales process as was required by the Fourth Amendment Agreement; that firm brought forward a company that can purchase and restart the refinery and we pursued the requisite agreements through the Senate," de Jongh said in a statement on Wednesday.

The Governor also urged members of the 30th Legislature to move quickly, as HOVENSA is now saying that, come mid-December, it will run out of money and [completely shutter the refinery](#).

"There are approximately two months left before a new Legislature is seated and it is my hope that the members of the 30th Legislature will give serious priority to taking action on this agreement. I look forward to working with the Chairman of the Senate Finance Committee and the other lawmakers towards the full Senate's consideration and approval of the proposed agreement," de Jongh said.

Apart from the issues senators have with the ABR VI Operating Agreement, other companies have come forward, making known that they, too, wanted to purchase the refinery, but was [blocked out of the process](#).

"When you look at the history that happened, all I can say is what happened to us, they asked us for money, and we sent them a secured bank instrument showing that we had \$350 million," Robert Shrader, CEO of Woodstown, New Jersey-based Monarch Environmental Services, Inc., parent company of Monarch Energy Partners, and related companies told *VI Consortium*, referring to Lazard Brothers, the company hired by the owners of HOVENSA to broker the sale of the refinery. "They came back and said, 'Well, that's not enough'."

He added: "When you said it's not enough, and you look at the deal on the table, then you have to wonder, 'Well, how is that not enough if [ABR VI] doesn't really have anything and we showed \$350 million just to put the key in the door. So, you look at that and have to wonder if something is afoul,'" Shrader said.

Shrader and Darryl Hardy, a principal at Monarch Energy, were recently on St. Croix at the Committee of the Whole hearing held on Nov. 10 at the Fritz Lawetz Conference Room in Frederiksted, where they testified along with ABR VI's team members, as shown in the video below.

Note: ABR VI's testimony lasted for about 56 minutes, followed by Monarch's testimony, which begins at 56:04 minutes into the video. The video is unedited footage of the hearing.

View the original embedded media (unavailable in the recovered archive)

On Nov. 9, Shrader sat down with *VI Consortium* for an exclusive video interview preceding the Committee of the Whole hearing, detailing his company's ongoing efforts to purchase HOVENSA. Shrader also delved into the offering Monarch Energy would like to put on the table and how it stacks up against ABR VI, the company with whom the VI Government has signed an Operating Agreement.

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A Special Session will be held later this month or in early December; however, it is not yet clear if the Senate will add the Operating Agreement to its agenda, as it now sits in the Finance Committee, chaired by Senator Clifford Graham of St. Thomas.