

The Virgin Islands Consortium

Citing Possible Collusion Between Governor Mapp And ArcLight, Judge Pushes HOVENSA Case To December 17

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ST. CROIX -- Governor Kenneth Mapp, speaking on Tuesday in St. Thomas during a conference on pesticides at the Charles W. Turnbull Regional Library, organized by the Department of Planning and Natural Resources and the U.S. Environmental Protection Agency, veered off message to announce that a settlement between the Virgin Islands Government, PDVSA and Hess Oil would soon be reached that would make Virgin Islanders "proud."

"The days of eating crumbs are behind us," Mr. Mapp declared, stating that there had been "fast development on the HOVENSA transaction," and that he spent much of his time in Florida last week "at the negotiating table, back and forth, and we're all wrapping differences up."

Those plans appear to have come to a screeching halt on Thursday, when a Delaware bankruptcy court judge was turned off by what she described as possible collusion between the Mapp administration and ArcLight Capital Partners, LLC, after Buckeye, the other company seeking to secure its bid of the shuttered refinery, located on the south shore of this island, testified against ArcLight and said it was relegated to the sidelines and blocked from discussions after announcing its bid.

Buckeye's last bid for HOVENSA was \$345 million, substantially more than ArcLight's \$190 million bid, but attorneys for the Mapp administration said ArcLight was chosen over Buckeye because they concluded that it would be difficult to do business with Buckeye. The Mapp administration also said that they had spoken to Buckeye, but attorneys for the firm said they've not been in communication with the government at all, and was forced out of negotiations soon after placing a bid. In fact, attorneys for Buckeye said, Joel Holt, who represents the government in the bankruptcy case, told them that the VI government would not do business with Buckeye; because an agreement was already in the making with ArcLight -- even if the government had not spoken with Buckeye to examine its offer.

Monarch Energy Partners Given Chance To Be Heard

Mr. Holt also brought Monarch Energy into the conversation at the court, arguing that it was a firm that did not have the wherewithal to purchase the facility. But the charge backfired, as Monarch Energy's attorney, Dan McCann, was given a chance to speak by the judge. Mr. McCann said just like Buckeye, they have been trying to meet with the governor but have been either ignored or discredited. He said Monarch Energy placed a bid on the table worth over \$1 billion, to include \$40 million in cash and over \$800 million to cover the cost of the extensive environmental damage the refinery has caused over the years. Mr. McCann also said that Monarch had assembled a team with multiple decades of experience in the refining business; a claim it would have to prove when the case is heard on December 17, 2015.

Possible Collusion Between Governor Kenneth Mapp and ArcLight

An attorney named [Sam Alberts of Dentons US LLP](#), who specializes in restructuring, insolvency and bankruptcy, according to his LinkedIn profile, and represented HOVENSA's creditors at yesterday's proceedings, told the judge that he could prove that there was a side deal between governor Mapp and ArcLight. The judge, not wanting to hear only one side of the story, said she wanted Governor Mapp subpoenaed to testify on the matter, which has grown increasingly complex, and resisted the call by the government's attorneys to fast-track the agreement between ArcLight and the government.

Governor Mapp's Response

In a Government House press release issued on Thursday night, Mr. Mapp said he acknowledged the order of the bankruptcy court to convene a hearing to examine

concerns raised by the HOVENSA's Creditor's Committee about the selection of ArcLight as the best bidder to purchase the assets at the former plant.

But the territory's leader stood by his new-found partner, ArcLight, a company that [he introduced to the Virgin Islands on Monday, September 14](#), at a press conference held at Government House. Mapp said the principles of the now-shuttered refinery — HESS Oil and PDVSA — introduced him and his team to ArcLight as a company with the wherewithal to reopen and maintain the portions of HOVENSA that it had agreed to purchase.

ArcLight, the governor said, is a lean, energy-focused private equity investment firm that has created a Virgin Islands-based company (Limetree Bay Holdings), with the parent firm being based in Boston, Massachusetts.

"The Government's transaction team had extensive consultation with both bidders and pursued an independent, full, and fair bidding process," Mr. Mapp said. "At the close of the bidding process, I made a decision to offer a concession agreement to ArcLight, subject to the approval of the Legislature."

But the other bidder that Mr. Mapp is referring to, Buckeye, said the process was not fair at all, and that contrary to the governor's assertions, they have not once met with Mr. Mapp or his team to discuss their bid. It was a sentiment being shared by Monarch Energy Partners, which suddenly emerged as an important player on Thursday after the judge told the firm to start talking directly with HOVENSA's creditors.

"I selected ArcLight because ArcLight offers the most robust prospects for jobs and revenues for the Virgin Islands," Mr. Mapp continued. "I believe that ArcLight's careful approach to the environmental issues at the refinery site make them a safer and more reliable operator of a business that had a serious environmental impact on the Islands. ArcLight's commitments from its partners, its customers, along with its plans to potentially operate the refinery on a limited basis, makes it a strong partner for the Territory. Moreover, its commitment to provide to the Government a carrying interest in its business and revenues from sales strengthens this partnership."

The governor concluded by stating that he stands by ArcLight, and looks forward to "demonstrating to the court, the Legislature, and the people of the Virgin Islands why I believe this to be our best option for growing our economy and providing jobs for our territory."

Correction: November 20, 2014

A previous version of this story stated that John Hess held a major stake in Buckeye. However, The Consortium was contacted by the Hess Corporation via email, which stated that neither Mr. Hess, nor Hess Corporation has a stake in Buckeye, as Mr. Hess sold his stake, a terminal network, to Buckeye in 2013, "and has no remaining interest in this business," according to the statement. The story has been updated.