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EPA Seeks Modification to 2011 Settlement With Hovensa in Bid to Transfer Certain Obligations of Settlement to Limetree Bay

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Former Hovensa Refinery, Now Limetree Bay. (Picture taken in 2015, though the refinery has been closed since 2012). By. ERNICE GILBERT FOR VI CONSORTIUM

The U.S. Department of Justice, on behalf of the U.S. Environmental Protection Agency (EPA), on Thursday filed a motion to enter the first modification to a 2011 consent decree with HOVENSA L.L.C., the prior owner of the Limetree Bay facility.

According to EPA, the 2011 consent decree resolves alleged Clean Air Act (CAA) violations at the refinery when operated by HOVENSA. Together with EPA's enforcement and permitting oversight of the facility, the EPA said the modification will advance the agency's ongoing efforts

to ensure protection of public health and the environment.

“Modifying this settlement is an important step to ensure the Limetree Bay facility will comply with environmental laws that protect people’s health and to address environmental justice concerns in communities in St. Croix,” said EPA acting Regional Administrator Walter Mugdan. “This settlement reflects EPA’s commitment to ensuring regulated entities like Limetree Bay comply with federal environmental law while enabling economic growth, and we look forward to working closely with nearby communities, as well as with the company itself, to help ensure the proper operation of this facility.”

The modification transfers certain of HOVENSA’s obligations under the 2011 consent decree to Limetree Bay Terminals, LLC and Limetree Bay Refining, LLC (Limetree Bay), the EPA said. The modification includes references to updated CAA requirements and updates benzene waste and leak-detection and repair audits and operating requirements, which ensure reduced emissions from refinery equipment and process units. It also makes adjustments to account for Limetree Bay’s lower operating capacity as compared to HOVENSA’s.

The modification also transfers certain obligations of the 2011 consent decree to an environmental response trust. The trust was established during HOVENSA’s bankruptcy proceedings to address Resource Conservation and Recovery Act requirements and to distribute the remaining consent decree-required escrow funds, which are now approximately \$4.5 million, to be used for Territorial Supplemental Environmental Projects chosen by the Virgin Islands Department of Natural Resources, and to distribute consent decree-required funds to assist the Virgin Islands Water and Power Authority in air monitoring.

According to the EPA, the proposed first modification to the consent decree was lodged in federal court on August 25, 2020 and published for public comment in the Federal Register on August 31, 2020. The motion to enter filed today includes responses to the public comments. It will become effective if the modification is approved by the court. Until that time, the 2011 consent decree remains in effect. A second consent decree modification adjusts a deadline that has already passed to a date later this year. The second modification requires filing, for the record.

The EPA said both modifications have no direct relationship to the plantwide applicability limit permit [that was withdrawn by EPA on March 25](#). That permit is being reviewed separately by EPA, according to the release. In addition, EPA is looking into the flaring incident at the refinery on February 4, 2021. EPA has already [requested detailed information about that incident](#) from Limetree Bay as part of its ongoing investigation.

The EPA said it continues to work with Limetree Bay, which the agency said is a key economic engine for the territory, and neither the original consent decree nor the modifications prohibit or permit Limetree Bay’s operation of the refinery.

"Rather, they provide requirements that Limetree Bay must comply with during operations," the EPA said. "The facility must comply with all federal and territorial environmental regulations as well as its operating permits."

Limetree Bay is in a community predominantly made up of people of color and low-income populations who are already disproportionately affected by environmental burdens, said the EPA. "These disproportionate burdens present environmental justice concerns, which are a priority for EPA," the agency concluded.

To read the motion to enter, the two consent decree modifications and the 2011 consent decree, visit to: <https://www.epa.gov/caa-permitting/caa-permits-issued-epa-region-2#palpermits>

