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EPA Red Tape Represents Major Obstacle for Potential Purchase and Restart of Limetree Bay Refinery

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Ernice Gilbert **October 19, 2021**

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Limetree Bay Refinery By. VI CONSORTIUM

Potential buyers of the oil refinery on the south shore of St. Croix expressed pessimism regarding the possible restart during an impromptu court status conference Monday morning, with the main issue being concern over the Environmental Protection Agency's permitting process.

"I am sure that any going concern bidder would have to say, 'well why would I put a DIP [debtor-in-possession financing] if I only know that I'm going to have that roadblock and the value that I'm going to get is going to ultimately be liquidation value if I can't meet that hurdle,'" said Gregg Galardi, St. Croix Energy LLLP counsel, referring to the EPA's permitting for restart of oil refining at Limetree Bay. "And there's nothing wrong with the EPA's position as we all

understand, but it does take a lot of work to deal with the permits."

EPA attorney Rick Kincheloe said the EPA was unwilling to deviate from the methodology that it has applied to such matters. "There's a lot of things that have to go in notice and comment as proposed decisions before the EPA can make a decision, and so the process to get an answer on permitting is just not short, and it's not something the EPA can front load. So we've tried to be candid with [potential buyers] so that they can evaluate that risk and they can put a dollar amount on it," Mr. Kincheloe said.

He added, "One of the problems we're running into is it's one thing if Limetree said, 'okay, we're going to restart and can you give us some guidance, this is what we plan to do.' It's another thing for a buyer to take the facility and then come to EPA and say, 'this is what we plan to do, what do you think.' It's as far as I know unprecedented for a prospective buyer to come to EPA and say, 'this is what we think we're going to do, what do you think,' before they own the facility. I'm not aware of that having happened before, or if EPA has given an answer. And the EPA is understandably uncomfortable deviating from the way it applies non-bankruptcy law."

Monday's status conference was called to discuss differences between bankruptcy lender Arena Investors LP and Limetree Bay over \$5 million of unpaid principal payments that came due Friday. Arena also alleged last week that Limetree Bay defaulted on \$63,000 of interest payments.

Court proceedings are taking place in Texas and are presided over by Judge David Jones, the chief bankruptcy judge for the Southern District in Houston. On Monday, Judge Jones suggested to potential buyers that they propose a structure to the EPA that would allow the agency to be more flexible. "It seems to me I can think off of my head a couple of different corporate structure approaches implemented through a plan which put the EPA back in position in their point of view of simply evaluating what the debtor needs to do to restart," Judge Jones said.

Mr. Galardi, the St. Croix Energy attorney, said the company has been thinking of creative ways to approach the issue, including a plan that would see the buyer operating under the debtor's permits for a period of time.

The judge has set another conference hearing for Thursday.

The economic impact from the closure of what was once the territory's largest employer is being felt both in the central government, on local businesses and on individual lives. The Bryan administration's touting of a \$71 million budget surplus [could no longer be boasted](#) in part due to the refinery's closure along with the spend of \$45 million to \$50 million on gov't employees based on a promise to repay the 8 percent salary reduction. Additionally, the Bryan administration had to include \$30 million in federal funds from the American Rescue Plan as an offset to meet budget projections. All considered, the government found itself in a deficit — \$20 million from refinery projections and the inclusion of \$30 million from Covid dollars to meet budget demands — of \$50 million.

A recent survey conducted by the Office of Delegate to Congress Stacey Plaskett brought into focus the sharp negative impact on the economy the closure of Limetree Bay Refining has had. Virtually all business owners who participated in the survey, seen here, said the closure had a negative impact on their operation in one form or another.

These business owners, some directly tied to Limetree Bay Refining, reported less traffic, loss of students (hinting at a learning institution), drop in marine services and less traffic at food establishments, among others.

"Our business supported and supplied a company that had a contract with the refinery," wrote one respondent. "The company needed logistical support building and maintaining a supply chain, together with local warehousing and delivery support. The closure has led to a significant decrease in sales and an excess of pre-purchased inventory with significant value. This equates to reduced Gross Receipts Taxes paid and a reduction in labor further impacting the community. We will struggle to deplete this inventory and will take a loss which could lead to further labor reductions."

During a Senate hearing earlier this year, Allison DeGazon, Division of Economic Research director, told Senator Kurt Vialet that the Limetree Bay operations, including the terminal and refinery, accounted for 15 percent of the territory's gross domestic product, or \$610 million. There were other sources of revenue directly tied to the south shore facility, including a \$14 million concession fee from the refinery. All considered, Limetree Bay's impact on GDP was over \$800 million, Ms. DeGazon said.