

The Virgin Islands Consortium

Port Hamilton Accuses EPA of Overreach in Ongoing Refinery Permit Showdown

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Janeke Simon **April 29, 2023**



An aerial shot of the refinery on St. Croix's south shore. By. ERNICE GILBERT, V.I. CONSORTIUM

As the legal showdown between Port Hamilton Refining & Transportation and the U.S. Environmental Protection Agency moves towards its day in court, Port Hamilton is framing the requirement that it apply for and obtain new permits from the EPA as unfounded, unjust, and an abuse of the federal agency's power and authority.

Port Hamilton is seeking judicial review over last November's [determination](#) by the EPA that the refinery would need to obtain a new Prevention of Significant Deterioration (PSD)

permit from the federal agency before it can proceed with restart operations.

The EPA's rationale is that the refinery, idled in 2012 when it was shut down by former owner HOVENSA before being [briefly restarted in February 2021](#), has been in a state of permanent shutdown ever since the 2012 closure. The brief restart by former owner Limetree, the EPA says, do not count because they were unsuccessful.

The EPA also argues that Limetree had been less than forthcoming about the true state of the facility and their intentions when the EPA decided in 2018 to allow the refinery to proceed with restart plans without needing new permits. This, the agency says, resulted in [disastrous consequences](#) with severe negative impacts on the wider community. Therefore, the new information received by the agency subsequent to the refinery's shuttering in May 2022, the refinery's performance during the temporary restart, the dilapidated state of the facility discovered in an [inspection](#) last year, and the ongoing lack of maintenance and rehabilitative work by current and previous owners on the aging, rusting refinery components that resulted in the [coke fire](#) that triggered the inspections, all led the EPA to rethink how it would approach the permitting process.

In a brief filed by Port Hamilton, however, the refinery's owners claim that the EPA is overstepping its authority, claiming powers it does not actually have. The company claims that the agency is twisting the facts to create a false narrative, insisting that in fact, the refinery was never permanently shut down. Even as HOVENSA took steps to idle the facility in 2012 in the face of crippling economic headwinds, Port Hamilton, in its brief, points to correspondence first from HOVENSA and then from Limetree that it claims demonstrates an ongoing commitment to eventually restarting operations.

Port Hamilton claims that the EPA's own correspondence implicitly acknowledges this, and the intention that the refinery be restarted is accommodated in the existing consent decree, which was modified from its original 2011 incarnation in April 2021. In its application to the court in that matter, the EPA stated that the modification "also provides Limetree with some flexibility to ensure that it is able to restart (as defined in the First Modification) in compliance with the terms of the [Consent] Decree while also ensuring that the restart maintains the benefits of the 2011 Consent Decree."

The EPA's language here and in other documents and communications, Port Hamilton argues, contradicts the agency's assertion of its belief that that refinery had been permanently shut down. Although the 2018 decision to allow a plantwide permit for the refinery to operate was [withdrawn](#) in 2021 by the EPA, Port Hamilton argues that this was the correct decision by the agency, and that the court should strike down the most recent decision requiring the company to go through the permitting process.

Governor Bryan, shortly before the request for judicial review was filed, [declared his support](#) for Port Hamilton's position, calling the EPA shutdown of the refinery "illegal", "bogus", and "malicious". An appellate court review on the matter is expected in late May.