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**LEGISLATIVE TESTIMONY OF JOEL H. HOLT FOR BILL NO. 31-0283  
COMMITTEE OF THE WHOLE, 31<sup>ST</sup> LEGISLATURE OF THE VIRGIN ISLANDS  
DECEMBER 16, 2015, EARL B. OTTLEY LEGISLATIVE HALL  
ST. THOMAS, VIRGIN ISLANDS**

GOOD MORNING HONORABLE MEMBERS OF THE 31<sup>ST</sup> LEGISLATURE—I AM JOEL H. HOLT, A PRIVATE ATTORNEY RETAINED BY THE GOVERNMENT TO HELP WITH THE NEGOTIATION OF THE OPERATING AGREEMENT THAT YOU ARE CONSIDERING TODAY. IT IS AN HONOR TO BE BEFORE YOU.

SINCE MY FELLOW PRESENTERS HAVE COVERED MOST OF THE TOPICS THAT YOU WILL BE CONSIDERING, MY COMMENTS WILL BE LIMITED TO ONE AREA—THE BANKRUPTCY PROCESS WE FOLLOWED TO GET HERE.

I AM DOING SO BECAUSE MANY OF YOU HAVE EXPRESSED CONCERN ABOUT THE TIME CONSTRAINTS INVOLVED IN HAVING TO APPROVE THIS AGREEMENT, WHICH IS A LEGITIMATE COMPLAINT THAT WE, AS A TEAM, ALSO ENCOUNTERED IN REACHING THE PROPOSED AGREEMENT WITH LIMETREE BAY TERMINAL LLC.

IN THIS REGARD, HESS REQUESTED THE GOVERNMENT TO MEET IN NEW YORK ON SEPTEMBER 8, 2015, TO DISCUSS ITS PLANS FOR THE REFINERY.

AS YOU HAVE HEARD, REPRESENTATIVES FROM ARCLIGHT, NOW KNOWN AS LIMETREE BAY TERMINALS LLC, WERE INTRODUCED TO THE GOVERNMENT AT THE MEETING. HOWEVER, AFTER THESE INDIVIDUALS LEFT, HESS INFORMED THE GOVERNOR THAT HOVENSA WOULD BE FILING BANKRUPTCY RIGHT AWAY.

THE GOVERNOR EXPRESSED HIS STRONG PREFERENCE THAT THE GOVERNMENT BE ALLOWED TO NEGOTIATE WITH ARCLIGHT OUTSIDE OF THE BANKRUPTCY PROCESS, BUT HESS WAS INSISTANT THAT HOVENSA WAS OUT OF FUNDS, SO AN IMMEDIATE BANKRUPTCY FILING WAS THE ONLY REMAINING ALTERNATIVE FOR IT. AS YOU HAVE HEARD, HESS TOLD THE GOVERNOR THAT THE GOVERNMENT COULD JUST FILE ITS CLAIMS IN THE BANKRUPTCY COURT, WHICH IT SUGGESTED WOULD BE LIMITED PRIMARILY TO ITS \$40 MILLION MORTGAGE.

TRUE TO ITS WORD, HOVENSA FILED BANKRUPTCY ON SEPTEMBER 15, 2015. HOVENSA FOLLOWED THIS INITIAL FILING WITH A PROPOSAL TO SELL THE

PLANT TO LIMETREE. AS LIMETREE WOULD NEED AN OPERATING AGREEMENT FROM THE VIRGIN ISLANDS GOVERNMENT, HOVENSA ALSO ATTACHED A PROPOSED OPERATING AGREEMENT FOR THE GOVERNMENT TO SIGN, WHICH WOULD HAVE NETTED THE GVI \$40 MILLION AT CLOSING, WITH LIMITED PAYMENTS OVER THE NEXT 40 YEARS. THE PROPOSAL ALSO GAVE THE HESS PARTIES A FULL RELEASE FROM ANY CLAIMS BY THE GOVERNMENT, WHILE PRESERVING ALL OF THEIR CLAIMS AGAINST THE GOVERNMENT.

NEEDLESS TO SAY, THAT PROPOSAL WAS TOTALLY UNACCEPTABLE. EQUALLY IMPORTANT, HOVENSA HAD CONDITIONS IMPOSED ON LIMETREE THAT IT COULD NOT EVEN MEET WITH US WITHOUT HOVENSA BEING PRESENT. FINALLY, HOVENSA ESSENTIALLY ELIMINATED THE POSSIBILITY OF THERE BEING OTHER BUYERS, AS IT HAD PREVIOUSLY HAD THESE OTHER POTENTIAL BUYERS ALL SIGN CONFIDENTIALITY AGREEMENTS THAT KEPT THEM FROM SPEAKING WITH ANYONE, INCLUDING US.

BECAUSE OF THESE RESTRICTIONS, THE GOVERNMENT ASKED THE BANKRUPTCY JUDGE TO VOID ALL OF THEM PRIOR TO ANY NEGOTIATIONS COMMENCING, WHICH THE COURT FINALLY ORDERED ON OCTOBER 8, 2015. THUS, WE WERE NOW ABLE TO NEGOTIATE WITH ANY BUYER, NOT JUST LIMETREE, WITHOUT HOVENSA BEING PRESENT.

HOWEVER, AT THE SAME TIME—ON OCTOBER 8<sup>TH</sup>—THE COURT SET NOVEMBER 10<sup>TH</sup> AS THE DATE FOR FOR THE SALES AUCTION. THUS, WE HAD ONLY 32 DAYS TO NEGOTIATE A TERM SHEET WITH THE PARTY WE FELT OFFERED THE BEST DEAL TO THE VIRGIN ISLANDS. WHILE WE DID NOT LIKE THE TIME CONSTRAINTS PLACED ON US, WE AGREED THAT IT WAS IN THE BEST INTEREST OF THE VIRGIN ISLANDS TO TRY TO GET THIS DONE.

FORTUNATELY WE HAD TWO GOOD, STRONG COMPANIES, BUCKEYE AND ARCLIGHT, INTERESTED IN THE PROPERTY. WHILE THERE WERE OTHERS, IT QUICKLY BECAME OBVIOUS THAT WE COULD GET AN AGREEMENT WITH EITHER OF BUCKEYE'S OR ARCLIGHT'S LOCAL COMPANIES THAT WOULD BE SOMETHING THAT WOULD HELP LIFT OUR ECONOMY AND GIVES US HOPE OF BETTER DAYS TO COME, ESPECIALLY ON ST. CROIX.

THIS ENDEAVOR TOOK COUNTLESS HOURS, BUT WE WERE ABLE TO ACCOMPLISH OUR MISSION BY USING INDUSTRY EXPERTS, ENVIRONMENTAL EXPERTS, BANKRUPTCY EXPERTS AS WELL AS OUR OWN WIDE ARRAY OF EXPERIENCE IN A VARIETY OF FINANCIAL AND LEGAL MATTERS. AS YOU KNOW, AT THE END OF THIS INTENSE PROCESS, THE GOVERNOR PICKED LIMETREE AS THE ENTITY THAT PROMISED A BETTER FUTURE FOR THE VIRGIN ISLANDS ON NOVEMBER 9<sup>TH</sup>.

IT THEN TOOK THE BANKRUPTCY COURT THREE MORE WEEKS TO APPROVE THE SALE OF THE REFINERY TO LIMETREE. AS YOU KNOW, ACCUSATIONS OF COLLUSION WERE MADE AGAINST THE GOVERNMENT AND OTHERS, REQUIRING THE BANKRUPTCY COURT TO ADDRESS THOSE ACCUSATIONS. ON

NOVEMBER 30<sup>TH</sup>, THE BANKRUPTCY COURT HELD AN EVIDENTIARY HEARING ON THESE ACCUSATIONS. WHILE THE PRESS ENJOYED TELLING YOU ABOUT THOSE ACCUSATIONS, ALMOST NO ONE RAN A STORY ON THE JUDGE'S DETAILED FINDINGS—SHE CONCLUDED THAT THE SALE WAS CONDUCTED FREE OF ANY IMPROPER INFLUENCES, WAS CONDUCTED IN GOOD FAITH, INVOLVED NO FRAUD AND WAS FAIR. SHE THEN APPROVED THE SALE FROM HOVENSA TO LIMETREE.

HOWEVER, THE JUDGE PLACED TIGHT TIME CONSTRAINTS FOR ALL OF THIS TO GET DONE, AS HOVENSA INFORMED THE COURT THAT IT WOULD RUN OUT OF CASH TO OPERATE THE PLANT ON DECEMBER 31, 2015. THUS, THIS DATE BECAME THE TARGET DATE FOR GETTING EVERYTHING DONE, EVEN THOUGH IT WAS NOT A COURT ORDERED DEADLINE.

THE NEXT DAY, ON DECEMBER 1<sup>ST</sup>, THE GOVERNOR SENT YOU A LETTER, TRANSMITTING THE PROPOSED OPERATING AGREEMENT AND ASKING YOU TO CONSIDER IT. THUS, YOU RECEIVED THIS PROPOSED OPERATING AGREEMENT AS PROMPTLY AS THE BANKRUPTCY PROCESS ALLOWED.

JUST LIKE THE TEAM THAT NEGOTIATED THIS AGREEMENT, I AM SURE YOU WOULD LIKE MORE TIME TO REVIEW EVERYTHING. IN SHORT, WE FULLY APPRECIATE AND UNDERSTAND YOUR POSITION. HOWEVER, THE TIGHT TIME CONSTRAINTS ARE SIMPLY PART OF THE BANKRUPTCY PROCESS, NOT THAT OF OUR CHOOSING. IRONICALLY, THESE TIGHT DEADLINES HAVE ACTAULLY HELPED US, KEEPING US FOCUSED SO WE COULD GET THE JOB DONE.

I HOPE THIS EXPLANATION HAS BEEN HELPFUL TO YOU. I WOULD LIKE TO MAKE ONE LAST COMMENT. I TOOK THIS PROJECT ON, HOPING THAT IT WOULD RESULT IN A POSITIVE STEP FORWARD FOR THE VIRGIN ISLANDS. THE WORK HAS BEEN FASCINATING. IT HAS ALSO BEEN EXHAUSTING. BUT, MANY GOOD THINGS HAVE COME ABOUT BECAUSE OF THE COMPETITION BETWEEN ARCLIGHT AND BUCKEYE, WHICH WOULD NOT HAVE HAPPENED WITHOUT BOTH OF THEM WANTING THIS SITE. THAT HELPED TO CREATE AN OPPORTUNITY WE DO NOT WANT TO MISS, OR UNDULY DELAY, IN MY VIEW.

FOR EXAMPLE, WE ARE GETTING FAR MORE THAN 330 ACRES, AS NOTED IN THE ATTACHED MAP AND PROPERTY DESCRIPTIONS, WHICH TOTALS OVER 580 ACRES. THE 122 HOUSES WE ARE GETTING ARE IN GREAT SHAPE ACCORDING TO THE COMMISIONER OF PUBLIC WORKS, WHO PERSONALLY INSPECTED EACH ONE. OF PARTICUALR SIGNIFICANCE IS THE FUTURE INVOLVEMENT AT THE SITE BY SINOPEC, WHICH YOU WILL HEAR MORE ABOUT FROM LIMETREE, THAT MAKES THIS TRANSACTION EVEN MORE EXCITING.

WHILE THERE IS WORK STILL TO DO AND QUESTIONS THAT NEED TO BE ANSWERED, I HOPE THESE DISCUSSIONS WILL BE CONSTRUCTIVE, FOCUSING ON HOW TO MAKE OUR FUTURE BETTER--TRANSITIONING FROM A SHUTTERED REFINERY TO A VIBRANT BUSINESS OPPORTUNITY--AS THAT IS REALLY THE ISSUE FOR ALL OF US TO CONSIDER AND RESOLVE. THANK YOU.