Message

From: lopez.peter@epa.gov [lopez.peter@epa.gov]
Sent: 3/5/2019 10:51:34 PM
To: Tomiak, Robert [tomiak.robert@epa.gov]
Subject: Re: Limetree Bay Terminal (LBT) Status Update 3/5/2019

Hi My Friend.

Thank you for your earnest engagement.

I am a strong believer in clear communications

Pete Lopez
Regional Administrator
US EPA-Region 2
290 Broadway
New York, NY 10007
(212) 637-5000
Personal Matters / Ex. 6

On Mar 5, 2019, at 5:08 PM, Tomiak, Robert <tomiak.robert@epa.gov> wrote:

> Pete,
>
> I appreciate your feedback and advice; really regret that the wording of my earlier note wasn't clearer that I and I alone created, and was the cause of, the delay in reporting. Will work hard to earn your trust and confidence.
>
> Thanks, Rob
>
> Begin forwarded message:
>
> > **From:** "Tomiak, Robert" <tomiak.robert@epa.gov>
> > **Date:** March 5, 2019 at 3:50:56 PM EST
> > **To:** "Darwin, Henry" <darwin.henry@epa.gov>
> > **Cc:** "Traylor, Patrick" <traylor.patrick@epa.gov>, "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lopez, Peter" <lopez.peter@epa.gov>, "Tyler, Tom" <Tyler.Tom@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Mugdan, Walter" <Mugdan.Walter@epa.gov>
> > **Subject: Limetree Bay Terminal (LBT) Status Update 3/5/2019**
> >
> > Henry,
> >
> > Latest project status is provided below. As previously indicated, I made a decision late Friday to delay this report and requested that the team afford an additional round of staffing/vetting (not normally part of our regular process) given the nature of this particular update to prevent surprises and ensure alignment/accuracy. With the USACE's issuance of their 404 permit for the SPM, we now own the actions that are most critical and urgent to LBT.
> >
> > Thanks, Rob

Administrator Update: In a biweekly call with Limetree Bay, EPA made it clear that the company's requested end of June issue date for the PAL permits was not possible because it would allow no further time for review of the extensive PAL application, given that close to four months is the minimum required time period to accomplish the Agency publication and notice process prior to final permit issuance. While R2, in consultation with OAR and OGC, is doing everything possible to expedite processing the permit, there remains a broad gap between a realistic timeline for completion and the company's request.

Update on Current EPA Actions:

- **CD Negotiations Update**: EPA and DOJ met last week to continue review of all items that the group was discussing prior to the shutdown. Next steps include reestablishing contact with the VIDPNR and the new VI Commissioner-Designee prior to providing Limetree Bay responses to items it submitted in late December and during the shutdown. The case team is also waiting for a few more Limetree Bay submissions and is hoping to meet with the company in early April.

- **MACT Subpart Y**: Region 2 and the Air Enforcement Division of OECA briefed the Acting Director and Acting Associate Director of SPPD in OAQPS on the MACT Subpart Y compliance deliberations. Members of OGC were also present on the call. OAR indicated that it would need to brief the matter further up. A meeting with Limetree Bay will be arranged after all necessary briefings have been conducted. LBT has articulated that our determination is a consequential decision that may significantly impact their project cost, viability, and/or timeline.

- **PAL:** In a biweekly call with Limetree Bay, EPA made it clear that the company's requested end of June issue date for the PAL permits was not possible, given that the back end of the permitting process, if there were no substantive comments, would take close to four months, which in itself would bring us to the end of June, providing little time for review of the extensive permit applications. While R2, in consultation with OAR and OGC, is doing everything possible to expedite processing the permit, there remains a broad gap between a realistic timeline for completion and the company's request.

- **Most Significant Non-EPA Update:** On February 12, 2019, the NMFS provided the USACE its biological opinion. On February 22, 2019, the USACE issued the 404 permit for the Single Platform Mooring (SPM). Limetree Bay indicated that they have already begun construction.

From: Tomiak, Robert
Sent: Monday, March 04, 2019 4:57 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Re: Limetree Bay Terminal (LBT) Status Update 3/1/2019

Henry,

I apologize for the delay in last Friday's status update. Given the nature of the proposed update submitted by the team, I wanted to afford Pete the professional courtesy of his personal review. Will submit once he's had that opportunity.

Thanks, Rob

On Feb 15, 2019, at 1:47 PM, Tomiak, Robert <tomiak.robert@epa.gov> wrote:

> Henry,
>
> NMFS issued their Biological Opinion on Tuesday required for USACE to issue a 404 permit, which we expect will happen very soon. Focus will soon be almost exclusively on our pending actions and the timing. More detailed update is provided below.
>
> Thanks, Rob
>
> **Limetree Bay Terminals St. Croix project update 2/15/19**
>
> **Administrator Update**: We were informed by LBT that they finally received the BiOp from NMFS on 12 Feb; and USACE estimates issuing the 404 permit within the next 7 days. We expect LBT's interest to shift more heavily to our pending actions with increased requests for information related to our estimated timing.
>
> **Update on Current EPA Actions:**
>
> - <!--[if !supportLists]--><!--[endif]-->**CD Negotiations Update**: EPA and DOJ are preparing for an internal meeting to occur on 2/20 to review all items that the group was discussing with the VIDPNR prior to the shutdown. The team is also preparing and meeting to review edits and proposals LBT submitted prior to the shutdown. After completing this review, DOJ and EPA will resume discussions with the VIDPNR and the new VI Commissioner-Designee on what can be provided to LBT prior to the next meeting with them.
>
> - <!--[if !supportLists]--><!--[endif]-->**MACT Subpart Y**: Briefings within Region 2, and with and within OECA and OAR/OAQPS continue. Following completion of the necessary briefings, a meeting with LBT will be planned. LBT requested a meeting with political leadership before a final decision is rendered on this issue.
>
> - <!--[if !supportLists]--><!--[endif]-->**PAL:** The region is currently waiting for LBT's submission of modeling protocol for EPA review and LBT has indicated that it will provide information within the next week or two.
>
> - <!--[if !supportLists]--><!--[endif]-->**Most significant impact/risk:** Once USACE issues (expected soon) the 404 permit for the Single Platform Mooring (SPM), we expect LBT's interest to shift more heavily to EPA pending actions with increased requests for information related to our estimated timing.

From: Tomiak, Robert
Sent: Thursday, January 31, 2019 10:21 AM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 1/31/2019

Henry,

R2, OECA, OAR, and other supporting offices have quickly ramped back up after the shutdown; and we held a team coordination call this morning with LBT and their legal/management team to provide status updates on all pending actions. Please note the very last paragraph that quantifies the financial impact to LBT (their input) as a result of the shutdown that delayed NMFS in the processing of a Biological Opinion in support of a USACE 404 permit. Our colleagues at NMFS have indicated that they have restarted their efforts to conclude their process and coordinating closely with USACE.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 1/31/19

Administrator Update: Actions relating to the restart of the Limetree Bay Terminals (LBT) facility located in St. Croix, Virgin Islands were delayed by the partial government shutdown. The most significant shutdown impact to LBT was the delay in the processing of a Biological Opinion by the National Marine Fisheries Service in support of a pending Army Corps 404 permit. EPA actions delayed include the processing of a recently submitted set of Plantwide Applicability Limit (PAL) applications, deliberations relating to the MACT subpart Y determination and Refinery Sector Rule, and negotiations on modifications to an existing Clean Air Act (CAA) Consent Decree.

Update on Current EPA Actions:

- <!--[if !supportLists]--><!--[endif]-->**CD Negotiations Update**: Prior to the shutdown, LBT, EPA and DPNR were exchanging drafts and information relevant to the negotiations. EPA and DPNR were engaged in reviewing responses from LBT and were waiting for additional LBT submittals. During the first week after the shutdown, LBT indicated that it will get additional information to us shortly. The litigation team has resumed its work on responding to LBT's submissions.
- <!--[if !supportLists]--><!--[endif]-->**MACT Subpart Y**: Prior to the shutdown, senior leadership in OECA was briefed and provided documentation related to the compliance determination. We anticipate that there will be at least one more level of briefing prior to any determination being shared with LBT.

- <!--[if !supportLists]--><!--[endif]-->**PAL:** On December 28, 2018, EPA issued a letter in which it indicated that it determined the application complete as of December 27. Doing so before the end of the calendar year was critical to LBT as it allowed for inclusion of 2009 emission data in the ten-year baseline.
    - <!--[if !supportLists]--><!--[endif]-->An EPA timeline for the seven requested PALs was developed and shared with various divisions in HQ but has not yet been discussed with LBT. The facility is requesting issuance of the permits for the PALs by the end of June, but it has not indicated why and this time frame is an unreasonably short time frame for review of the more than 300 page application package. The CAA provides that issuance of permits be within one year of a complete application.
    - <!--[if !supportLists]--><!--[endif]-->Region 2 is focusing its permitting staff on review to ensure that the package is reviewed and acted upon as soon as practicable.
- <!--[if !supportLists]--><!--[endif]-->**Most significant impact/risk (Non-EPA)** Due to the partial government shutdown, the NMFS's Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat was not provided to the USACE (Army Corp) by January 14, 2019 as anticipated, so USACE could not issue the 404 permit for the Single Platform Mooring (SPM) within the timeframe provided by the statute. LBT has indicated it is paying $82k/day to retain a dredging crew in the Virgin Islands so that it can begin work when the permit is issued.

From: Tomiak, Robert
Sent: Thursday, December 06, 2018 9:54 AM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 12/6/2018

Henry,

This bi-weekly update was delayed a bit to ensure we had alignment throughout the team on some upcoming communication points, highlighted below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 12/06/2018

Administrator Update: LBT submitted a package requesting seven plantwide applicability limits (PALs) on November 27, 2018. LBT has indicated that it thinks it needs the PALs by June 30, 2019, which is five months less than allowed for by the CAA. Region 2 staff, in consultation with OAR and OGC, have been working on a feasible timeline. A technical

meeting is scheduled for December 11, 2018, at which LBT will walk the region through the over 300 page application.

- **Update on Current EPA Actions:**
    - **CD Negotiations Update**: LBT, EPA and the VIDPNR met on 11/07 to discuss consent decree modifications; EPA, DOJ and the VI continue to engage in follow-up calls. Parties are beginning to exchange deliverables identified at the 11/07 meeting. EPA and DOJ are in the process of coordinating schedules with the VIDPNR to enable us to engage in a series of telephone calls during the month of December.
    - **MACT Subpart Y**: Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently working with HQ on deliberations pertaining to the extent of applicability. While LBT has still not submitted all of the requested information, it submitted enough for EPA to proceed with compliance deliberations. Briefings are being arranged for several upper level managers.
    - **PAL:** Region 2 staff, in consultation with OAR and OGC, have been working on a timeline. LBT has indicated that it thinks it needs the plantwide applicability limits (PALs) by June 30, 2019, which is five months less than allowed for by the CAA. Late on November 27, 2018, LBT submitted a package that is over 300 pages, in which it requested seven PALs. An in-person technical meeting has been scheduled for December 11, 2018 at which LBT will walk the region through the LBT submission. Information obtained at that meeting and through review of the submission should facilitate providing an initial internal timeline by mid-December.
- **Most significant impact/risk (Non-EPA) (NO CHANGE)** to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/14/19 completion date. LBT seems likely to elevate complaints specific to perceived delays by NMFS.

From: Tomiak, Robert
Sent: Friday, November 16, 2018 12:48 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 11/16/2018

Henry,

Extensive coordination ongoing between R2, OECA, and OAR on LBT actions/requests. Bi-weekly update provided below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 11/16/2018

- **Update on Current EPA Actions:**
  - **CD Negotiations Update:** LBT, EPA and the VIDPNR met on 11/07 to discuss consent decree modifications; Internal and external follow-up calls are ensuing; Parties will share written list of deliverables to be exchanged prior to and at the next meeting. At least one meeting is likely to be scheduled for the month of December.
  - **MACT Subpart Y**: Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently working with HQ on deliberations pertaining to the extent of applicability. EPA has not received all of the information it requested at and after its October 25 meeting. LBT has indicated that the remainder of the requested information will be in this week. Internal briefing documents are being prepared and the Region is working with OECA and consulting with OAR to make the determinations.
  - **PAL**: LBT modified its November 1, 2018 timeframe for submitting a PAL application and indicated that the application would be provided by the end of the third week in November.
- **Most significant impact/risk (Non-EPA) (NO CHANGE)** to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/14/19 completion date. LBT seems likely to elevate complaints specific to perceived delays by NMFS.

Administrator Update: R2 is fully engaged with LBT on compliance and applicability issues. R2 preparing timelines for processing various actions, which will be submitted after vetting with engaged offices.

From: Tomiak, Robert
Sent: Friday, November 02, 2018 11:42 AM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 11/2/2018

Henry,

Significant support to LBT on a multitude of permit related issues and questions from R2 and OAR. As we close in on a meeting of minds with LBT on what permits and other determinations they require from us and other resource agencies, we have started constructing a Gantt chart to identify and map out critical path and to express process milestone dates required to help LBT stay on their schedule. Bi-weekly update provided below.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 11/02/2018

- LBT and EPA will meet on 11/7 to discuss the remaining items on the consent decree; multiple actions have been removed from the consent decree negotiation and are now being tracked by our team.
- LBT indicated that upon interfacing with CEQ, and potentially WH staff, they were assured that the MARPOL 2020 standards for marine fuel will not be delayed, contrary to the WSJ article.
- Current EPA Action **(UPDATE)**: Compliance issues with MACT subpart Y remain the most critical and time sensitive EPA action/issue to LBT. R2 is currently examining recently-provided background materials from LBT.
- Most significant impact/risk **(UPDATE)** to LBT is the timing of NMFS' Biological Opinion (BiOp) under the Endangered Species Act (ESA) for impacts to coral/coral habitat and critical to obtaining a 404 permit from USACE for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side). LBT needed the BiOp to be completed by 10/15 to meet contractual obligations; NMFS still articulating a 1/13 completion date. LBT likely to elevate complaints specific to perceived delays by NMFS.

- Administrator Update: R2 providing timely technical assistance in response to LBT on several permit and compliance issues.

From: Tomiak, Robert
Sent: Friday, October 12, 2018 12:23 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 10/12/2018

Henry,

Intent was to go to bi-weekly updates; however, in our meeting yesterday with LBT lead counsel, they flagged what they now consider a new "showstopper" for their Single Platform Mooring (SPM)

project. While not a new issue, LBT desired to seek resolution of control standards through the CD. Upon being advised by DOJ that path would not be appropriate, LBT may now potentially characterize EPA as presenting their project with the most risk.

Update below. Please let me know if you'd prefer additional details or a brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 10/12/2018

- Current EPA Action **(UPDATE)** In mid-August and again on September 21 LBT was told by DOJ, and then the representatives from OP, to contact regional staff to determine what is needed to comply with Maximum Achievable Control Technology (MACT) Subpart Y Standards, for marine tank vessel loading operations, at the fuel loading terminal. These issues may have an impact on decisions relating to the feasibility of the SPM. On October 12, 2018, LBT contacted the Region 2 ORC Air Chief and LBT agreed to provide background information prior to a call to occur next Wednesday. Information submitted will be reviewed and discussions will be relating to the issues will be ongoing. Although LBT's counsel believes that very expensive controls will be required, EPA has not made a determination as to what controls, if any, may be needed; EPA does not yet have information from LBT in order to make this determination.

- Proposed Summary for AW: **(UPDATE)** LBT is meeting with Region 2 experts next week to determine what compliance is needed for the marine loading MACT; LBT has committed to providing R2 with required information in advance.

From: Darwin, Henry
Sent: Friday, October 05, 2018 1:07 PM
To: Tomiak, Robert <tomiak.robert@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: RE: Limetree Bay Terminal (LBT) Status Update 10/5/2018

Thank you Rob for the update and the continued work on this. I agree that bi-weekly will be fine.

Henry

From: Tomiak, Robert
Sent: Friday, October 5, 2018 10:54 AM
To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 10/5/2018

Henry,

I'm confident now that our cross-agency team has an extremely good handle on all aspects of this project and its major milestones and dependencies; to even include those actions required of other organizations. The only EPA action standing between LBT and the restart of refinery operation remains the acceptance by LBT of some modified form of the Consent Decree; however, it is not yet closing in on a point where it would negatively impact the January 2020 target refinery restart date.

The team's focus has also expanded to LBT's conceptual expansion projects, unrelated to their refinery restart, and in coordination with other organizations to include VIDPNR in the event that they require reach-back and/or technical assistance from R2 or OAR.

The only update of note is the first bullet below. Unless you prefer even a minor weekly update, it might make sense to move to bi-weekly updates at this point. We continue to meet in person with the expanded LBT (legal, planning, design, and operations) team on a bi-weekly basis.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 10/5/2018

- Cross-agency team is discussing LBT's perceived need/desire for a Plantwide Applicability Limit (PAL). Our team is initially unclear on the purpose it would serve for LBT, but continuing discussions with LBT on their contemplated scope of expansion projects such that we may provide accurate advice and assistance if/when an application is received.

- Current EPA Action **(NO CHANGE)** is the Consent Decree (CD). DOJ/OECA met with LBT and the VIDPNR 9/21 to discuss the CD. The parties are progressing toward agreement that six of LBT's 27 modification requests will be handled separately and outside the CD mod. Patrick Traylor (OECA) reiterated to LBT principals that EPA is postured to be responsive and has established an executive level coordination team, but LBT must provide DOJ and OECA with information requested to help.

- Most significant impact/risk **(NO CHANGE)** to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal

consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.

- Proposed Summary for AW: **(NO CHANGE)** EPA has established a dedicated team to assist LBT; all EPA actions are tracking and currently pose no delay to refinery restart. EPA has made it clear that LBT needs to timely provide EPA with information requested.

From: Tomiak, Robert
Sent: Friday, September 28, 2018 11:13 AM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 9/28/2018

Henry,

Weekly status update provided below. As briefly mentioned yesterday on our way to the OFD brief, OECA reinforced with the LBT principal and lead counsel last Friday that EPA established a senior working group to provided dedicated and timely assistance; however, they must provide information previously requested which is critical to our/DOJ's ability to help them quickly resolve issues and questions related to the Consent Decree. Our team remains focused on seeking LBT's additional potential plans and conceptual ideas related to "expansion/modification" so that we can determine what else might be required of us, or other organizations, and how we can assist. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 9/28/2018:

- LBT and counsel provided background documents describing the single-point mooring (SPM) and refinery restart projects as well as a table showing the permits and other regulatory reviews and approvals they anticipate needing to restart the refinery and install the SPM, including many permits and applications LBT already has in place.
- Current EPA Action is the Consent Decree (CD). DOJ/OECA met with LBT and the VIDPNR 9/21 to discuss the CD. The parties are progressing toward agreement that six of LBT's 27 modification requests will be handled separately and outside the CD mod. Patrick Traylor (OECA) reiterated to LBT principals that EPA is postured to be responsive and has established an executive level coordination team, but LBT must provide DOJ and OECA with information requested to help.

- Most significant impact/risk **(NO CHANGE)** to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.

- Proposed Summary for AW: **(UPDATE)** EPA has established a dedicated team to assist LBT; all EPA actions are tracking and currently pose no delay to refinery restart. EPA has made it clear that LBT needs to timely provide EPA with information requested.

From: Tomiak, Robert
Sent: Friday, September 21, 2018 1:13 PM
To: Darwin, Henry
Cc: Traylor, Patrick ; Wehrum, Bill ; Bolen, Brittany ; Lopez, Peter ; Tyler, Tom ; Harlow, David
Subject: Limetree Bay Terminal (LBT) Status Update 9/21/2018

Henry,

LBT status update provided below; the team we assimilated is up and running with a significant degree of cross-organizational coordination and communication within their areas of expertise. In particular, Flaire Mills (R2 ORC) has been invaluable to our team effort. Please advise if you have any questions or would like an in-person brief.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 9/21/2018:

- Established a routine of bi-weekly meetings with LBT and their lead counsel; to include R2 lead. LBT and counsel indicated appreciation for our attention, coordination, and responsiveness.
- A modification to LBT's Title V permit is of significant concern to LBT. R2 offering assistance to Virgin Islands Department of Planning and Natural Resources (VIDPNR), which is the lead Title V permitting authority.
- EPA's major action at the moment is the Consent Decree (CD); OECA/DOJ reviewed the 27 requests for modification and held a meeting with LBT today (9/21) to attempt to narrow issues and find a mutually acceptable path forward on the CD. This action is not yet approaching a point of delay/impact; nor is it yet a concern for LBT.

- Most significant impact/risk to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat, which commenced on 8/31 and is projected to conclude by 1/13, after which USACE will need about 2-3 weeks to issue their permit. LBT likely to elevate complaints specific to NMFS timeline.

- Proposed Summary for AW: **(NO CHANGE)** EPA is actively engaged with and assisting LBT; all EPA actions are tracking and currently pose no delay to refinery restart. Current LBT concern is with the timing of a required USACE 404 permit, which triggered Endangered Species Act consultation with NMFS, for the installation of a mooring platform and underwater pipeline required to accommodate a larger class of oil tankers.

From: Tomiak, Robert
Sent: Friday, September 14, 2018 12:23 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Tyler, Tom <Tyler.Tom@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Limetree Bay Terminal (LBT) Status Update 9/14/2018

Henry,

My first recurring weekly status update is provided below. I will aim for Fridays, unless you or Andrew have a preference/need for a different frequency and/or different point in the week. I will also end each update with a proposed summary that you can forward to AW at your discretion so that he is prepared to respond quickly to a no-notice inquiry. I'll keep future updates shorter (3-4 bulleted highlights or so), but please advise if you'd prefer a format other than what I have provided today. There is also a lot of detail behind each piece, so we are prepared to brief you in person with little notice if you'd like a deeper dive or have questions at any point. R2, OECA and OAR staff have invested a significant amount of time digging into the details; which certainly made getting up to speed much easier. I've copied Bill, Patrick, David, and Pete out of courtesy and appreciation....which I'd ask make it back down to their staff (and if any of you would like to be dropped from future updates, please let me know offline).

I've also attached R2's more recent issue paper/fact sheet for reference.

Thanks, Rob

Limetree Bay Terminals St. Croix project update 9/14/2018:

- We met on 9/13 with LBT, their lead counsel, and reps from their project management (PM) team and primary financiers (ARCLIGHT); communicated that I'll serve as their front door and switchboard operator for anything they need from EPA. We listened to a description of intent, context, challenges, and timing.
- LBT (counsel/PM) shared their project schedule (in the form of a Gannt chart), discussed the scope of the project components, and committed to providing a list of all known requirements (permits and requests for information) for us to determine if we have a collective meeting of the minds on scope, actions, and due dates. LBT acknowledged that they have not yet fully defined the scope of their plans for a "plant expansion", so requirements, and our actions, may continue to evolve. LBT is likely to resubmit an application to be a FAST-41 covered project with USACE as the lead agency.
- We also held our first internal team meeting on 9/13 (reps from R2, OLEM, OW, OAR, OECA, OGC, Sectors, and OEJ); articulated expectations, discussed scope and context of project, and started building a database/tracker of all known and anticipated actions (to include those of other federal and local agencies).
- EPA's major action at the moment is the Consent Decree (CD); OECA/DOJ reviewed the 27 requests for modification and require additional information from LBT which was requested in writing by DOJ on 9/10. This action is not yet approaching a point of delay/impact; nor is it yet a concern for LBT.
- Most significant impact/risk to LBT is the timing of USACE's 404 permit for a Single Platform Mooring (SPM) fed by an underwater pipeline that will accommodate off-shore bulk fuel transfer to large oil tankers (too large to be brought pier side) which LBT indicates they require by 11/1 to meet contractual obligations. The 404 permit triggered formal consultation with NMFS under Endangered Species Act (ESA) for impacts to coral/coral habitat which commenced on 8/31. Formal consultation statutory clock is 135 days, after which USACE will need about 3-4 weeks to sign a NEPA decision and issue their permit. I have had several coordination meetings already with USACE and NMFS counterparts. Senior leadership in both agencies are aware of and tracking progress; however, there is a significant risk that this will run well beyond LBT's desired 11/1 date and trigger complaints of impact and delay.

- Proposed Summary for AW: EPA is actively engaged with and assisting LBT; all EPA actions are tracking and currently pose no delay to refinery restart. Current LBT concern is with the timing of a required USACE 404 permit, which triggered Endangered Species Act consultation with NMFS, for the installation of a mooring platform and underwater pipeline required to accommodate a larger class of oil tankers.

From: Darwin, Henry
Sent: Wednesday, August 29, 2018 4:33 PM
To: Lopez, Peter <lopez.peter@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Tomiak, Robert <tomiak.robert@epa.gov>
Subject: Limetree

Pete:

Acting Administrator Wheeler and I have asked the Office of Policy to engage their Office of Federal Activities to lead in the coordination of the Limetree matter. The Director, Rob Tomiak, has agreed to serve as EPA's project manager who will be the primary point of contact for Limetree in helping to connect them with the federal programs and offices they must involve to resume operations. Please inform your team to fully cooperate with Rob in these efforts.

If you have any questions, please let me know.

Thank you.

Henry