LIMETREE BAY TERMINALS (LBT), ST. CROIX, USVI

HOVENSA/LBT Region 2 Coordinator: Flaire Mills 212-637-2198

	ISSUE OR MATTER[1]	LEAD OFFICE AND POINT OF CONTACT	STATUS
A.	LBT has applied for a **CWA Section 404 permit** from the Corps of Engineers for the construction of an off-shore single-point mooring buoy and pipeline to allow for the unloading and loading of larger crude vessels. EPA Region 2 sent the Corps comments and recommendations about the permit application on 12/29/17. The permit application triggered the need for the Corps to evaluate the proposed project under NEPA and to consult with the National Marine Fisheries Service under Section 7 of the Endangered Species Act and under the Magnuson-Stevens Act (for essential fish habitat evaluation).	Corps of Engineers (point of contact: Sindulfo Castillo Chief, Antilles Regulatory Section U.S. Army Corps of Engineers San Juan, PR)	The Corps has provided LBT with the comments and recommendations that were made by EPA (in the 12/29/17 letter) and other agencies relating to LBT's application for the §404 permit. Discussions between LBT and the Corps are ongoing. LBT and the Corps recently met with NOAA to discuss the details of the studies required for the Endangered Species Act evaluations, and NOAA provided additional requirements in writing to the Corps, which were forwarded to LBT. On 8/30/18, the Corps' project manager informed EPA Region 2 that the Corps does not believe an Environmental Impact Statement (EIS) is necessary and so the Corps will prepare an Environmental Assessment (EI). The project manager also stated that the Corps is waiting to receive substantive information from LBT before coordinating further with EPA and other agencies. This includes the water quality analyses requested by EPA in its 12/29/17 letter. In addition, LBT is required to submit an application for revision of its title V permit to include the conditions of the revised November 2016 VI Authorization to Construct and Operate, which was initially issued for the oil terminal expansion and revised in April 2018 to include the single point mooring buoy.

[1] EPA does not anticipate that the proposed restarting of the LBT refinery would impact the continued remediation of legacy releases, which, under a 1999 RCRA Permit, as amended, are being addressed by the HOVENSA Environmental Response Trust (ERT) established pursuant to HOVENSA's Bankruptcy Liquidation Plan and operating pursuant to an ERT Agreement, both entered in bankruptcy prior to the sale of the facility in January 2016.

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B.	**Refinery Restart Project** – restart portions of the refinery to produce low-sulfur marine diesel fuel (MARPOL)	VIDPNR	In June 2018, the VIDPNR issued LBT an Authorization to Construct relating to this project, the terms of which are required to be included in the facility's title V Operating Permit. The VIDPNR has requested that LBT submit the application to revise the permit prior to restarting the units. In accordance with 40 C.F.R. Part 70 and the VIDPNR Title V Permit program developed and approved pursuant to Part 70, operation can begin provided LBT files a complete title V permit revision within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. LBT has not yet submitted an application for the title V permit revision.
C.	**Renewable Biodiesel Fuel Production Project**	VIDPNR	LBT may still be contemplating this project, however it has not applied to VIDPNR for an Authorization to Construct, or subsequent application for title V permit revision. In addition, EPA does not have enough information to determine if a PSD permit is needed for this project.
D.	**Oil Terminal Expansion Project-** construction of new crude oil storage tanks to approximately double the crude oil storage capacity at LTB (an additional 10-15 million barrels)	VIDPNR	LBT is required to submit an application for revision of its title V operating permit to include terms of its November 2016 Authorization to Construct and Operate the expanded oil terminal project. (This Authorization was revised in April 2018 to include the SPM project.)
E.	**Negotiation and finalization of Consent Decree (CD) Modification**. The parties to the CD modification will be the United States, the Government of the Virgin Islands, LBT, a remaining representative of HOVENSA, and the HOVENSA Environmental Response Trust (ERT). One of the main purposes of the CD modification will be to add LBT and the ERT as parties to the Consent Decree. (The original CD was entered into with HOVENSA in 2011 years prior to HOVENSA filing for bankruptcy.) In May 2018, LBT submitted to OAR a "Priority List" of 27 new CD modification requests (even though the CD modification negotiations are an enforcement matter under the purview of the	The EPA/DOJ CD Modification negotiation team currently has the lead on all 27 issues listed below, however, on August 15, 2017, the team informed LBT that issues 1.d., 1.e., 3, 5, 15 and 27 are ones that more appropriately should be addressed outside of the CD modification negotiations. At the September 21, 2018 meeting, the team will also indicate that issue 4 is more appropriately handled outside of the CD modification negotiations.	EPA, DOJ, the Government of the Virgin Islands and LBT have a scheduled negotiation session on September 21, 2018. LBT has agreed to submit, prior to the meeting, a summary of its plans for energy generation at the facility, and to clarify which of its "asks" are critical for the refinery restart. After we receive the clarification from LBT, Region 2, OECA and DOJ will be better able to evaluate and respond to those requests. We understand that LBT also intends to push back on the EPA decision that issues 1.d., 1.e., 3, 5, 15 and 27 are not appropriate for consideration as part of the CD modification negotiations.

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	OECA, Region 2's enforcement program and the DOJ, and even though the DOJ had contacted LBT's attorney to resume CD modification negotiations). The 27 LBT requests are listed below.	EPA point of contact for the negotiation team: Flaire Mills Associate Regional Counsel Office of Regional Counsel EPA Region 2 mills.flaire@epa.gov 212-637-3198	
	1. LBT is asking that rather than requiring that the company be in compliance with the applicable CAA Enforcement/Investigatory / Ex. 7(a) d. Request for delayed compliance with Refinery Sector Rule. e. Request for extension of compliance deadlines for Boiler MACT f. R Enforcement/Investigatory / Ex. 7(a) nt/Investigatory / Ex. 7(a)	1.a.-c. and 1.f.: EPA/DOJ CD Modification negotiation team 1.d. and 1.e.: More appropriately: OECA and the Region 2 Air Compliance Branch	
	2. Enforcement/Investigatory / Ex. 7(a) ne	EPA/DOJ CD Modification negotiation team	
	3. Request for authorization to operate modified refinery units prior to VIDPNR's issuance of modified Title V permit	More appropriately VIDPNR	VIDPNR has requested that LBT submit an application to revise the facility's title V permit prior to beginning operation of the refinery units. Once that application has been submitted, LBT can operate in accordance with it.
	4. Request for removal of SO2 ambient monitors and meteorological stations.	EPA/DOJ CD Modification negotiation team	

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	5. Request for statement/determination that Refinery Restart and CD modification do not necessitate a modification to the Regional Haze FIP	More appropriately: EPA R2 Air Program Branch, OAR and VIDPNR	The Regional Haze FIP Federal Register Notice is specific about how to process requests relating to the restart and CD Modification.
	6. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	7. Request for clarification and explicit listing of CD emission limits and standards that survive termination of the CD and are required to be incorporated into federally enforceable permits.	EPA/DOJ CD Modification negotiation team	
	8. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	9. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	10. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	11. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	12. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	13. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	14. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	15. Request for statement/declaration that compliance with CD satisfied requirements of VIRR 204-45 and to change references in that regulation to HOVIC to refer to LBT.	More appropriately: VIDPNR	
	16. Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	

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	17. [redacted] rcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	18. [redacted] Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	19. [redacted] forcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	20. [redacted] Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	21. [redacted] cement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	22. [redacted] Enforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	23. [redacted] forcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	24. [redacted] ative Process, Attorney Client/ Ex. 5; and Exemption 7a	EPA/DOJ CD Modification negotiation team	
	25. [redacted] nforcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	26. [redacted] forcement/Investigatory / Ex. 7(a)	EPA/DOJ CD Modification negotiation team	
	27. Request for declaration that LBT's marine terminal does not meet the definition of an "Offshore Loading Terminal" and therefore is not subject to the MACT.	More appropriately: EPA R2 Air Compliance Branch and OECA	

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