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December 23, 2020

Sent United States Mail-Return Receipt Requested

Mr. Gary Engle or Manager

CBI Acquisitions, LLC

EHI Acquisitions, LLC

Caneel Bay Resort

North Shore Road

Cruz Bay, VI 00831

Secretary David Bernhardt

US Department of Interior

1849 C Street, NW

Washington, DC 20240

Honorable William Barr

United States Attorney General

950 Pennsylvania Ave, NW

Washington, DC 20530

Mr. Pete Lopez

Regional Administrator of the US Environmental Protection Agency

290 Broadway

New York, NY 10007-1866

Mr. Andrew Wheeler

Administrator of the US Environmental Protection Agency

1200 Pennsylvania Ave, NW

Washington, DC 20460

Ms. Sadie Clendinen

Chief Administrative Officer

Waste Management Authority

United States Virgin Islands

3200 Demarara

Charlotte Amalie, VI 00802

DNF Agent for Service of Process, Inc.
 (Personal Service on Agent for Service of Process CBIA & EHIA)
 For Service Upon CBI Acquisitions, LLC and EHI Acquisitions, LLC
 1000 Frederiksberg Gade
 St Thomas, VI 00802

Re: CBI Acquisitions, LLC and EHI Acquisitions, LLC dba Caneel Resort, St. John, USVI

Dear Mr. Engle and Interested Parties:

Enclosed please find a copy of a Notice dated September 22, 2020 identifying certain alleged environmental violations and conditions with respect to the property known as Caneel Bay Resort on St. John, United States Virgin Islands. The September 22, 2020 Notice provides significant details with respect to environmental conditions which should be addressed at the Caneel site owned by the United States government.

I hereby restate, incorporate by reference and re-serve the Notice of September 22, 2020 and request that a thorough environmental evaluation occur at the earliest date and time in order that the conditions observed in the three environmental reports referenced in the Notice can be addressed in a manner consistent with best practices and applicable environmental laws and regulations.

I add the following new and additional environmental concerns and conditions to the Notice:

1. Former employees and former guests of Caneel report that Caneel employees at various times took a cart around the grounds spraying the grounds extensively with pesticides, including what is believed to be DDT. If so, there may be evidence of the extensive use of DDT or other pesticides. Testing will need to occur to determine the extent of contamination, if any.
2. Former employees report that allegedly when housing units were remodeled there was asbestos removed from buildings and buried on the site. I have a sample of asbestos from the Caneel grounds given to me by a concerned citizen who reports that there are larger pieces available for inspection.
3. It has come to my attention that the possibility exists that the methods of disposing of used laundry water containing bleach and other chemicals may have resulted in those chemicals being poured on the ground over a long period of time and possibly contaminating soils and water or the water table at Caneel. No prior environmental testing occurred which would have assessed this possibility.
4. Concerns have been expressed about the disposal of human waste at Caneel especially since the Irma and Maria storms. A resident recently smelled a bad smell near the sewage treatment area. There is or was a holding pond where sewage waste was dumped, and this area should be investigated for hazardous waste or toxic chemicals. A restaurant is opening at Caneel and any wastewater and human waste from restrooms should be treated in accordance with applicable laws and regulations. Were permits

obtained to construct wastewater treatment facilities? I am not aware of any prior testing to evaluate this type of contamination.

5. In a recent visit by Representative Plaskett it was observed that there was rotting food still on the site left since the September 2017 storms.
6. Senator Payne, Virgin Islands Senator, observed on a visit to Caneel after September 2017 that hazardous wastes or conditions existed. Senator Payne has further information with respect to his site inspection.
7. Concerns have been expressed about the desalinization water plant and its discharges. A resident of St. John has observed that the by-product of the plant was dumped into a gut along with high concentrations of chlorine from time to time. It should be investigated whether the operation of the plant complies with best practices and applicable environmental regulations. No prior environmental evaluations looked at this issue.
8. In a lawsuit filed in the United States District Court in the Virgin Islands, involving Mr. Calin Sprauve (3:09CV00165 AET-RM) and CBI Acquisitions, Mr. Sprauve, a long-term employee of Caneel, alleged the use of a pesticide he called Baygon and claimed it had been used at Caneel. Mr. Sprauve alleged that his disclosing the use of Baygon was one of the reasons for his termination of employment. The allegation of the use of Baygon is consistent with what prior environment reports discussed in terms of chemicals detected. I pass no judgment on whether the named pesticide was used but allege that the claims involving the use of this pesticide require that any environmental assessment investigate such allegation.
9. The three environmental reports referred to in the Notice previously served recommend significant investigations including additional ground water testing. To this date there is no evidence that such testing has occurred either before or subsequent to my Notice.
10. I am in possession of a report authored by ERTEC, an environmental firm, regarding a significant fuel spill at Caneel in March of 2010. In the environmental reports referred to in the Notice it was observed that there was still contaminated soil stored on the Caneel site, presumably from the March 2010 spill. Why was this spill not fully cleaned up in accordance with applicable laws and regulations? When will it be properly cleaned up since almost 10 years have gone by since the spill?
11. At least one former employee reports that the area above Caneel often referred to as the catchment basin and also referred to as the Caneel Quarry was used not only to store DDT but also other chemicals that may still be leaching into the soil. It is rumored that employees were told to go up to that area with a backhoe at night to bury things. I pass no judgment on whether or not that occurred, and it is not known exactly when it occurred, but the information is important enough to cause any further environmental assessments to investigate whether there is any substance to the rumors.
12. A former employee reports that methyl bromide, a highly toxic chemical, was used for soil sterilization. It is unknown whether the chemical still exists on the site and whether any would still exist, or a byproduct would exist. The matter requires investigation.

On December 9, 2020 I received a response to my Notice from Lois Wye, Assistant Solicitor, Environmental Compliance and Response Branch, United States Department of the Interior.

The response confirmed that the Department recognized the importance of performing an environmental investigation to fully characterize the nature and extent of any contamination that may exist on the Caneel property. However, the response does not address how and when the environmental investigation will occur. What areas of the approximately 150 acres will be assessed? No timeline for the investigation was given other than perhaps starting as early as February of 2021. As the giver of the September Notice and this Notice and as the person who is empowered by law to bring an action under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act and the Clean Water Act I hereby request further information regarding the nature and extent of the future environmental investigation to fully characterize the nature and extent of any contamination that may be present on the property.

More specifically, will the allegations regarding DDT not specifically addressed in the 2012, 2014 and 2017 environmental reports be investigated? Prior investigations did not look at the site where it is alleged DDT was stored. Will allegations regarding the wide use of pesticides and other chemicals be investigated? Will former employees and contractors be contacted to investigate what they know about the use of hazardous chemicals? Will matters related to the treatment of human waste and its disposal be addressed? Will it be determined whether or not Caneel management obtained the necessary permits at any time to use or to dispose of hazardous chemicals, including DDT? Did Caneel obtain a permit for the well documented landfill operation at Honeymoon beach at any time? How will the existence of asbestos in water pipes and the alleged disposal of asbestos from buildings be investigated and evaluated? What actions will be taken to protect employees and the public and the environment from the further release of hazardous substances or contamination from existing substances? What is being done now to protect against the further degradation of the environment due to hazardous wastes and chemicals? Are new areas of inquiry being contemplated due to the storms of Irma and Maria? What action will be taken to ensure that the future operations of the resort comply with all applicable environmental regulations and laws?

How will any environmental investigation be undertaken? Will the work be let out to bid and will the solicitations for bid be public? What will the Department request in terms of the scope of work by any engineering firm doing additional environmental investigations? What will be the time frame to accomplish the investigation and reporting of the results? How will clean up occur once the extent of the contamination is fully identified?

How will an investigation occur in a manner that will protect against further dissemination of contaminants and in a manner that protects the artifacts and historical structures on the site?

How will a clean-up occur in a manner that does not disturb and also protects the extensive archaeological ruins and artifacts, some dating back thousands of years?


I have enclosed a memo I obtained regarding a briefing held at the National Park Service in May of 2017. It is concerning that the contamination issues were clearly identified by the Department of Interior prior to May of 2017 yet DOI did nothing to address the contamination

issues identified by environmental reports. In fact, the memo says that negotiations stalled with CBI Acquisitions, LLC and EHI Acquisitions, LLC due to concerns about the NPS requirements associated with historic preservation and environmental contamination. Equally concerning is that the NPS believed it had the right to access the Caneel property to do additional environmental evaluations but "Mr. Engle stated that he would not allow the NPS EE/CA contractor access to the property." Even though solicitor Wye claimed in a recent response sent to me that DOI would be addressing the environmental contamination issues you can see why there is little confidence that DOI will properly undertake the needed assessments and clean up knowing that the first environmental work was reported on about 8 years ago with no remediation being performed in 8 years. The property, according to the Retained Use Estate deed from Mr. Rockefeller clearly and unequivocally says the land upon which Caneel sits belongs to the people of the United States. DOI needs to treat the Caneel property as it would any other property entrusted to it by the people of the United States.

My intention is to attempt to resolve these matters without the filing of a lawsuit in the United States District Court in order that all resources are focused on getting the best result. I am hoping that the Department of Interior and Caneel management will be transparent with me and the people of St. John with respect to these important issues and questions. All the entities involved hopefully share the same concerns and want the same result; the preservation and protection of one of the most unique and beautiful properties in the world.

Caneel is a world heritage site and should be respected and protected as such.

Yours truly,



David R. DiGiacomo

Briefing Statement

Bureau: National Park Service (NPS)
Issue: Caneel Bay Resort Lease on St. John US Virgin Islands
Park: Virgin Islands National Park (VIIS)

Key Points:

- P.L. 111-261, enacted in October 2010, authorizes the Secretary to enter into a lease with the owners of the Retained Use Estate (RUE) for Caneel Bay Resort on St. John, currently CBI Acquisitions, LLC (CBIA).
- The lease, if executed, could allow CBIA to continue to operate up to 40 years and would provide NPS with greater control over impacts of the resort to park resources. Lease negotiations between CBIA and NPS stalled in 2014 due, in part, to environmental concerns.
- VIIS Acting Superintendent, Jayne Shaffer and the Park's Commercial Services Specialist, Elba Richardson, during their meeting with the onsite manager of Caneel Bay Resort, Nicholai Hotze, and the new Asset Manager, Jessica Brown, were told that CBIA has reached out to Congress members to request support in developing a 40-50 year RUE extension.
- Caneel Bay is the largest single employer on St. John, and closure of the hotel would result in severe economic impacts to the community.
- Environmental contamination has been identified on the site. NPS will follow the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) process.
- The Southeast Region has completed a Removal Site Evaluation (RSE).
- The Engineering Evaluation/Cost Analysis (EE/CA), which will help determine the extent of the contamination and estimate, with greater certainty, the potential remediation costs is currently in progress.

Background:

- When Laurance Rockefeller donated the land to create the Virgin Islands National Park (1956), he retained approximately 148 acres within the authorized boundary of the park to operate Caneel Bay Resort. On September 30, 1983, the resort property was transferred to the park. One of the terms is a RUE that runs until September 30, 2023 for operation of the Caneel Bay Resort.
- P.L. 111-261 provides for extinguishment of the RUE, and transfer of all "Improvements" from the RUE holder to the NPS, as a condition of entering into a lease.
- If the RUE is allowed to expire without executing a lease, title to the "Improvements" will need to be resolved and is likely to result in litigation with the NPS potentially having to purchase the "Improvements" from CBIA.
- After the passage of P.L. 111-261, NPS commenced negotiation of a long-term lease with CBIA, and undertook related administrative actions. NPS administrative actions included the publication of an environmental assessment regarding the proposed lease, the preparation of an appraisal for establishing the lease's fair market value rent, studies of the historic attributes of the property, and assessment of environmental contamination that may exist on the property.
- Negotiations stalled in 2014 due to CBIA's concerns about the NPS requirements associated with historic preservation and environmental contamination.

Current Status:

- The EE/CA contractor has developed a plan to drill eight test wells on the property.
- In February 2017 Gordy Kito and Lars Hanslin met with Gary Engle of CBIA. At this meeting Mr. Engle expressed his concern about the upcoming drilling work and his desire to negotiate a term sheet with the Office of the Secretary. Mr. Engle also stated that he would not allow the NPS EE/CA contractor access to the property.
- The Department of Interior Solicitors Office believes that the NPS has the right to access the property to drill test wells. A formal request for access has not been sent to CBIA.
- Appraisal work that was previously completed will have to be updated at some point in the future.
- If the NPS and CBIA are unable to negotiate a long-term lease, development of a concession contract prospectus or a Request for Proposal for a lease will need to be initiated at the beginning of 2020.

Contact Person: Gordy Kito, Leasing Program Manager, (202) 354-2096
Last Updated: May 2017