

NAUTILUS, INC.
6100 Red Hook Quarter, B3
St. Thomas, USVI 00802

October 31, 2014

Department of Planning and Natural Resources
Division of Environmental Protection
Cyril E. King Airport
Terminal Building, Second Floor
St. Thomas, USVI 00802

Re: Little St. James
Terminal Facility License

Ladies and Gentlemen:

On behalf of Nautilus, Inc., the sole owner of the private residence known as Little St. James, in an abundance of caution, we submit the enclosed application to renew a terminal facility license pursuant to Section 706 of the Oil Spill Prevention and Pollution Control Act (12 V.I.C. §§701, et seq.) (the "Act"). However, we believe that the original request to obtain a terminal facility license for the fuel storage tanks and pumps located on Little St. James, and the subsequent renewal of the same, has been the result of a misunderstanding of the manner and purposes of use of those storage tanks and fuel pumps. For the reasons discussed below, we respectfully submit that they do not fall within the definition of a "terminal facility" under Section 703 of the Act, and therefore are not subject to licensing under Section 706 of the Act.

Section 706 of the Act only requires a terminal facility license for the ownership or operation of a "terminal facility." A "terminal facility" is defined in Section 703 of the Act as:

Any **waterfront facility of any kind . . . and related appurtenances located on land** . . . which facility and related appurtenances are used or capable of being used for the purpose of drilling for, pumping, storing, handling, transferring, processing or refining oil or other pollutants.

Section 702 of the Act, which states the legislative intent of the Act, clarifies that the "**waterfront facility and related appurtenances located on land**" that the Legislature intended to be licensed by the Department of Planning and Natural Resources were solely (1) vessels engaging in pollutant transfers with other vessels, (2) onshore facilities engaging in pollutant transfers with vessels, and (3) offshore facilities engaging in pollutant transfers with vessels. Pursuant to Section 702(3) of the Act, the Virgin Islands Legislature found that:

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The transfer of pollutants between vessels, between onshore facilities and vessels and between offshore facilities and vessels within the jurisdiction of the territory and the territorial waters is a hazardous undertaking.

And according to Section 702(4), the Act and its licensing requirements are intended to be an exercise of "police power by the territory by conferring upon the Department of Planning and Natural Resources power to . . . (a) deal with the hazards and threats of danger and damage posed by such transfers and related activities."

The storage tanks and fuel pumps on Little St. James are located inland and not on the waterfront. They are used exclusively for land-based purposes on Little St. James, a private residence, including operating its generators and other mechanical equipment and fueling the motor vehicles on Little St. James that are operated exclusively on land. No vessels are fueled on Little St. James. The fuel that is stored on Little St. James is received from fuel trucks which travel to Little St. James and transfer the fuel directly to the storage tanks located inland. There are no waterfront transfers of fuel and no waterfront receptacles that may be used to receive fuel from or transfer fuel to any vessels that dock at Little St. James. Under the circumstances, we believe it is clear that the storage tanks and fuel pumps on Little St. James do not constitute a "waterfront facility and related appurtenances on land" that would bring them within the definition of a "terminal facility" under Section 703 of the Act and thus require a license under Section 706 of the Act.

For the reasons stated above, we respectfully submit and seek your confirmation that no terminal facility license should be required for the tanks and fuel pumps located on Little St. James.

Please direct your response in this matter to Darren K. Indyke, Vice President of Nautilus, Inc., at the address set forth above. Thank you for your consideration.

Respectfully,

Darren K. Indyke

Encls.